

LOCAL BOUNDARY COMMISSION
STATE OF ALASKA

In re Petition to the Local Boundary)
Commission for Incorporation of the)
Petersburg Borough)
_____)

PETITIONERS' REPLY BRIEF

I. Reply to Comments and Briefs Opposing Borough Formation Filed by Residents of the Proposed Borough.

Twenty seven comments have been filed in opposition to the formation of the Petersburg Borough by residents who live within the proposed borough boundaries, but outside the current city limits. These comments include the signatures of approximately 32 residents of the area, or slightly more than 10% of the estimated population of 297 persons residing within borough boundaries outside of the existing city limits.¹ As is detailed below, the bulk of the comments acknowledge travel to, and use of, Petersburg, and the infrastructure and services provided there. Even the most remote residents of the area acknowledge they go to nearby Petersburg on a regular basis to obtain their mail, and buy services and supplies. However, most then go on to assert that despite those undeniable connections, their area should not be included in a borough because the City residents are "different", the City is in "dire financial straits", the residents reside "off-road" and travel can be difficult, or borough formation would impinge upon their "right to pursue freedom". In fact, City residents are not that

¹ Many of the commenters ridicule the 15% registered voter petition signature requirement, yet the number of those filing opposing comments in fact constitutes a lower percentage of the population of the area, and it should be readily apparent that it is much more difficult to obtain signatures on a borough formation petition which will, if approved, impose for the first time real property taxation on those who have, to date, obtained benefits from services without such payment, than it is to obtain opposition comments. One of the commenters claims to have obtained 300 signatures on a petition opposing the borough, but fails to provide that document, provocatively asserting, without any support, that there was fear of a City 'backlash'. While it is difficult to comment on a document which has not been provided, it is noteworthy that the blank form submitted, which was apparently used to obtain those signatures, states that the Borough would have "ultimate title" to residents' land, home, and personal property, and that planning and zoning regulations would be imposed "in which they would have little or no voice." Such comments are both inflammatory in their rhetoric and superficial in their content, and it would not be surprising signatures were obtained when such language was used.

“different” from those living outside City limits; the City is well prepared financially for the future; there is relatively good access to the borough seat from outlying areas via maritime travel, a customary and normal mode of transportation in Southeast Alaska; and the ‘right to pursue freedom’ does not equate to the right to completely escape property taxation now borne by other Alaskans. 97% of Alaskans, many who reside off road systems, now live within organized boroughs or cities.

Public comments and opposition briefs are addressed below under each of the four standards set out in A.S. 29.05.031.

A. A.S. 29.05.031(a)(1) – The population of the area is interrelated and integrated as to its social, cultural, and economic activities.

While most comments filed by those who live off Mitkof Island assert that there is no interrelationship between their residences and the City of Petersburg, the authors uniformly have Petersburg addresses, and many acknowledge that they travel to Petersburg regularly by boat to purchase supplies, utilize private or public services and engage in social activities.

- “We use Petersburg because it is near.” G. Cole Responsive Brief, p. 9
- “We do purchase supplies and food as well as receive some medical and dental care in Petersburg.” K. Howard comment.
- “We usually only go to Petersburg once every week or 10 days. (occasionally twice).” R. Reed comment.
- “We visit and shop in Petersburg because it is the most convenient community....” G. Cole Responsive Brief, p. 10
- “I have a postal box in the city of Petersburg.” B. Johnson comment.
- “Most of us get our mail and supplies in Petersburg. Some of us attend church and other social activities there. Almost all of us use Petersburg as our arrival and departure point to access our homes, cabins or recreational lands.” Keene Channel Residents, p. 3.
- “We do receive medical and dental services within this area and we pay for these. We shop, repair, process, and pay for these services. ... We recycle at our own expense and pay for services provided when we use the city dump. We use the library but do not pay for their service.” L. Howard comment.
- “We plan travel to Petersburg once a week.” I. Lynn comment.
- “Many of us get to town twice a month and in the winter only once.” J. Reed comment.
- “I own property both inside and outside Petersburg’s current city limits. I have had my permanent residences at both locations. The home I have in Petersburg was also the sight [sp] of a bed and breakfast business that I maintained while

living in town. I am still a current member of the Chamber of Commerce and have participated in Chamber activities.” C. Villasenor comment.²

- “We spend a lot of money in Petersburg for the necessities of life: food, fuel, building materials, etc. A. Williams comment.
- “[W]e all have a box at the local Post Office.” K. Howard comment.

Even those who steadfastly claim to have no connection to Petersburg assert that they “contribute a lot to the Petersburg economy in sales tax”, or “spend a lot of money in Petersburg for the necessities of life”, or “contribute generously to sales tax revenues through legitimate commerce”, which can only mean that they regularly go there for goods and services. See, A. Dybvik, A. Williams and R. Thynes comments.

This connectedness is not surprising given the relatively close proximity of the outlying areas to the current city limits. The City of Kupreanof is a five minute ($\frac{3}{4}$ mile) skiff ride to the City harbor. The Keene Channel area is approximately 15 nautical miles down Wrangell Narrows, or about an hour in a 15 mph skiff, from the City – a boat trip reduced to 6 miles if one takes a skiff to Papke’s Landing and drives to town from there.

Despite this undeniable connection, the commenters suggest that the standard of A.S. 29.05.031(a)(1) has not been met because there are “distinct differences” between the residents living within city limits, and those living outside, including off-island. Aside from the fact that the differences are not as great as the commenters would like to suggest³, the idea that a regional borough cannot cover a large area of land which includes both sparsely populated remote areas as well as a town or towns ignores the history and intent of borough formation in Alaska. As discussed in Mobil Oil Corporation v. Local Boundary Commission, 518 P.2d 92 (Alaska 1974). it was anticipated that one borough could contain both rural and more urban areas, and cover a broad land mass.

² This ownership of property both inside and outside of the current city limits is typical. Many city residents own recreational cabins outside city limits, and off Mitkof Island, including in Keene Channel, Duncan Canal, Beecher Pass, Pt. Agassiz and Farragut Bay. Also, some off-island residents own property within the City. In fact, the mayor of Kupreanof owns three properties located within city limits.

³ As set out in further detail in the following sections, a number of those filing opposition comments travel “to town”, often daily, for work (i.e. the Petersburg Postal Clerk). Other residents who currently live outside of City limits used to live and work inside City limits, and travel to Petersburg at least weekly, and sometimes more often. Others live in Petersburg for part of the year, and in more outlying areas other parts of the year. Others residing outside City limits also own residential property within City limits.

The standards for incorporation set out in AS 07.10.030 [predecessor to A.S. 29.05.031] were intended to be flexibly applied to a wide range of regional conditions. This is evident from such terms as “large enough”, “stable enough”, “conform generally”, “all areas necessary and proper”, “necessary or desirable”, “adequate level” and the like. The borough concept was incorporated into our constitution in the belief that one unit of local government could be successfully adapted to both urban and sparsely populated areas of Alaska....

518 P.2d at 98. The Court quoted from T. Morehouse & V. Fischer, Borough Government in Alaska (1971), and its summary of the constitutional convention’s local government committee summary of the principles underlying the borough concept:

Self-government—The proposed article [Article X of the Alaska Constitution] bridges the gap now existing in many parts of Alaska. It opens the way to democratic self-government for people now ruled directly from the capital of the territory or even Washington, D.C. The proposed article allows some degree of self-determination in local affairs whether in urban or sparsely populated areas....

* * *

Flexibility—The proposed article provides a local government framework adaptable to different areas of the state as well as to changes that occur with the passage of time.

Id. at fn. 14. The Morehouse/Fischer article is quoted further as it describes the two different types of boroughs which had evolved in Alaska, reflecting “this intended flexibility”:

[T]wo recognizable types of organized boroughs now exist in Alaska: the *regional borough*, generally covering an extensive area including several widely dispersed small communities, incorporated and unincorporated, and the *urban borough*, having a population concentrated primarily in a single urban core area, characteristically overspilling the boundaries of a central city. It could be anticipated that the local governmental system will evolve in the two directions of unification and regionalism associated with these basic physical and socio-economic patterns.

Id. In Southeast Alaska, the regional borough predominates. The Haines Borough, the City and Borough of Sitka, the Ketchikan Gateway Borough, the City and Borough of Wrangell, and the City and Borough of Yakutat located along the Gulf Coast, all have large land bases, with differing sized pockets of more urban versus more rural areas. The proposed Petersburg Borough would similarly meet this contemplated regional borough standard.

The existing City of Petersburg is a small town of less than 3000 persons, located on an island accessible only by air or boat. To many people, Petersburg itself would be considered small town rural living, especially compared to Anchorage, Fairbanks, Juneau or even Ketchikan. Some of the descriptions of Petersburg submitted by the commenters – “herd living”, “shoulder to shoulder living” – are obviously a bit overblown, and call to mind major metropolitan centers like New York, not the small town of Petersburg. Petersburg is less populated than many other Alaska cities, including Bethel, Dutch Harbor, Nome, Barrow, Homer, Sitka or Ketchikan, for example. It is seriously doubtful that anyone would fairly describe any of these places as significantly urban. Many Alaska residents inside cities and boroughs, including Petersburg residents, are living self-reliant, subsistence lifestyles.⁴ They work in the commercial fishing industry, many recreate and/or earn livings outside of city limits, many have cabins located in the area proposed for borough formation, especially in the Keene Channel/Beecher Pass area, which they access by boat or skiff, and many boat to regional areas to hunt ducks, deer, goat or moose, or to catch fish for personal use.⁵

The commenters’ suggestion that smaller concentrated areas of residential population, inhabited by those using a nearby small town as a supply, service and access hub, cannot be incorporated into a common borough if there exist any “differences of lifestyles” between the groups would defeat the very concept of a regional borough. The areas of Keene Channel, Beecher Pass/Duncan Canal, Papke’s Landing, Pt. Agassiz and Farragut Bay clearly have more in common with Petersburg than with any other town in Alaska. This is reflected by the fact that none of the commenters claim to travel to any other town in Southeast Alaska, other than Petersburg, on a regular basis to obtain routine supplies or services, or collect their mail.⁶

⁴ The City’s website notes that “[a] visit to Petersburg provides some insight into the character of a true Alaskan town – isolated, with an obvious spirit of community and self-sufficiency.”

⁵ See, Harvest and Use of Fish and Wildlife Resources by Residents of Petersburg, Alaska, ADF&G Technical Paper No. 164 (June, 1988).

⁶ Several commenters suggest that their access to and use of Petersburg is “no different” than Petersburg residents buying products from Anchorage, Seattle, New York or Phoenix. With respect, this analogy is ridiculous. Petersburg residents don’t go to Anchorage, Seattle, New York, or Phoenix on a weekly or monthly basis to collect their mail, shop for groceries, attend church, go swimming or check out a library book. Several other commenters suggest that they dock at a state-owned dock at Papke’s, and drive on a state-owned road to access the airport, post office or other services, failing to note that existing state infrastructure is there only because the City of Petersburg exists. The City didn’t just happen to spring up around the state infrastructure; rather it was the state infrastructure which was built around the City. Without a City, there would be no airport, no state roads, no state ferry terminal, and no U.S. Post Office. Furthermore, the City maintains 26 miles of City roads on the island,

Furthermore, off-island travel to Petersburg by outlying residents is not a one-way street. Many residents of Petersburg use these same areas to recreate and hunt. Inclusion of these areas in a Petersburg Borough is no different than inclusion of Meyers Chuck in the Wrangell Borough, Icy Bay in the Yakutat Borough, or Baranof Warm Springs in the City and Borough of Sitka (except that, as is discussed below, these other areas are in fact much further from their seats of borough government than the areas being discussed here).

Several commenters suggest that the off-island areas are already in a borough – the unorganized borough – and that they share a common “economic reality, population, logistical travel and communication difficulties, culture, and social similarities” with the unorganized borough, more so than with nearby Petersburg.⁷ This reasoning is neither legally nor factually sound. As was made clear in the Mobil Oil case (at pp. 99, 101), the Constitution encourages borough formation, and “favors upholding organization of boroughs by the Local Boundary Commission whenever the requirements for incorporation have been minimally met”. Article X’s purpose was to provide for maximum local self-government, with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. In other words, the formation of local organized boroughs is anticipated, and the ‘unorganized borough’ is the default position – it simply includes areas of Alaska which have not yet been placed into an organized local borough.⁸ The unorganized borough was not intended to be used as a means for allowing residents to perpetually escape any tax-levying jurisdiction. Furthermore, it strains credulity to suggest that the Keene Channel or Duncan Canal residents, who are

which must be traveled to reach many of the area’s services, including gas stations, stores and the library, and several highly used parking areas, especially those located adjacent to City owned and maintained harbors (which are also frequented by off-island residents). Several of those commenting state that if Petersburg ‘was not there’, they would go to Wrangell or Kake for services and supplies. This is irrelevant to this petition, of course, since Petersburg is there. If there were no Petersburg, there would be no pending petition and those commenting might well be appropriately included in another borough, such as the Wrangell Borough. It is interesting to note, however, that Wrangell is quite a bit further from the Duncan Canal/Beecher Pass area than is Petersburg, across the open waters of Sumner Strait, and residents from south of Petersburg would have to travel by Petersburg to even reach Kake, which is 55 miles further on, to the north and west.

⁷ One commenter goes so far as to suggest that the unorganized borough emphasizes ‘public participation.’ It is difficult to understand how that can be true since there is no local government within the unorganized borough (other than the Alaska State Legislature) in which to participate.

⁸ See, A.S. 29.03.010 (“Areas of the state that are not within the boundaries of an organized borough constitute a single unorganized borough.”)

self-described as mostly retired, including a number of former City residents, and who travel to Petersburg regularly to buy and use private and public services and supplies, have more in common with the residents of Toksook Bay, Adak, Kake or Venetie, which have different cultures, economies, resources and, in some cases, languages, than Petersburg.

Many of the differences claimed by some off-island residents relate to assertions that the City has “out-of-control spending habits” and an “appetite for debt”; and that the City residents, unlike their outside-the-City counterparts, are “in debt up to their ears”. These statements ignore the City’s responsible fiscal planning, and fail to recognize that there are frequently strong differences among the City residents themselves. Like any other town or city in Alaska, the residents of Petersburg are not a monolithic group of like-minded people, who all agree on every subject, including what to borrow money for and who to elect to best lead the community. One commenter’s claim that “we are not homogenous”, could just as easily be applied to the residents of the City of Petersburg. Every citizen of a proposed borough does not have to be in agreement on every issue, fiscal or otherwise, in order to be ‘interrelated’ or ‘integrated’ for purposes of meeting the standards for borough formation. If that were indeed the standard, no boroughs would ever be formed in the State of Alaska.

Furthermore, despite the unsupported allegations of several commenters, the City does not have an “ongoing debt problem”, and is not sitting idle during these challenging economic times. The City began the fiscal year with over \$3.6 million dollars of unrestricted, unappropriated funds in its general account.⁹ Additionally, the City had anticipated the loss of federal forest receipts (Secure Rural Schools program) a number of years ago, and wisely began saving a good portion of those annual payments into an account which now holds over \$3,000,000. The City has another account which currently has a balance of over \$4.6 million dollars, which is intended to “engender economic development and job creation within and surrounding the city”; use of those funds is limited to projects which “have economic development potential and long-term economic viability.” See, Petersburg Code of Ordinances, Chapter 4.40 – Economic Fund. The largest one-time expenditure to date from the latter fund has been a \$500,000 contribution to the recent construction of a community cold storage facility. This facility was completed in 2007 and has increased capacity for the local processors and direct market fishermen (many of whom reside outside the City), resulting in increased area employment and raw fish taxes. The cold storage also has noncommercial uses – specifically, it allows area residents to rent freezer space, large

⁹The City Council recently approved Resolution #1959, at the recommendation of the City auditor, establishing a General Fund Balance Policy, directing that the general fund balance be maintained in the target range of no less than four, nor more than six, months of operating expenses. In the case of an excess fund balance, this allows for the council to either direct fund surpluses to other accounts, reduce future property taxes, or approve capital expenditures.

enough for three or four 50 lb. wet boxes, for a modest fee of \$15/mo., for storage of frozen fish and meat. This facility is used both by City residents and by those living outside City limits, including individuals from Kupreanof and Papke's Landing, for the same monthly fee.

Another ongoing economic development project – a boat haul-out and work yard in Scow Bay – is for the benefit of the small boat fleet, including owners who reside both in and outside City limits, and would provide another boat tie-up for residents currently outside the City limits.

Two ongoing marketing programs are also supported by the City, but aimed at promoting economic development in the surrounding region. One is a joint project with Wrangell and Prince of Wales Island, aimed at promoting the Central Southeast area as a whole. The other program's goal is to promote the Petersburg region (the area of the borough, not just the current City limits, was provided to the marketing firm), utilizing the history and identity of the City while expanding upon these to reflect the changing demographics of the area. It is intended not only to advertise the area to tourists, but to promote the region to new commercial users and potential residents. These City-supported economic development projects benefit the region as a whole, including both City residents and non-City residents (contrary to one commenter's statement to the effect that there is no record of City projects beneficial to outside residents). It is also interesting to note that while several commenters claim there is a lack of economic diversity in the area, they simultaneously either ignore or ridicule Petersburg's economic development efforts.¹⁰

Furthermore, the City's bonded indebtedness is actually quite limited. In the last decade, residents have approved bonds for fairly limited, but important purposes – an elderly housing/assisted living center, an aquatic center¹¹, a vocational education

¹⁰ One of the comments filed states that no one residing off of Mitkof Island belongs to the Petersburg Chamber of Commerce. This is incorrect. Several fishing lodges, two of which are located on Kupreanof Island, belong to the Chamber, as do several residents of the Keene Channel area, including two who own a produce company in town. A number of other companies outside City limits, and on Mitkof Island, also belong to the Chamber, including bed and breakfasts, RV parks, a fish company and a nursery.

¹¹ The aquatic center consists of a facility with workout areas, gym equipment, a basketball court and two pools. See Attachment 1. The facility is used for the majority of each day (from 8:15 am to 2:45 pm) by the Petersburg School District, for both swimming and gym instruction. There is a middle school swim class in the morning and a high school swim class in the afternoon. The remainder of the time is used for elementary school class swim instruction. It cannot reasonably be argued that children residing in a coastal area, where boat travel is a regular way of life, shouldn't be taught to swim. The remaining facility hours are used for open swim, lap swim or open gym, or by a 250 member community youth swim team. Donn Hayes, the Parks and Recreation

building, school maintenance, and, just recently, for library construction.¹² The aquatic center and vocational education building indebtedness is 60% reimbursable by the State, and the school maintenance is 70% reimbursable by the State.¹³ While the City's total amount of reportable bonded indebtedness is \$14,905,002, the taxpayer actual share is substantially less than that – approximately \$5.2 million – after deducting state reimbursable sums and sums paid by elderly living residents, harbor users, and electric utility customers. See, Attachment 2. This is a relatively modest sum, and is reflective of a town which wishes to remain attractive to existing and new residents and businesses, while being fiscally responsible. It is worthy to note that the residents have also rejected a number of proposed bonds in recent years, and rejected a temporary increase in the sales tax. The recent vote on indebtedness for library construction was actually quite close – 522 to 484 – and is a good example of the healthy difference of opinion among City residents on fiscal issues. In fact, if the commenters would in fact have uniformly voted against any bonded indebtedness, their votes would have changed the outcome of this vote. This belies their suggestion that their voices could not be heard in important borough matters.

It is further noteworthy that the citizens of the City amended the City Charter in 1991 to cap the real property mill rate at 10 mills, excluding debt service. See City Charter, sec. 11.8. As a result, the City has a lower mill rate than many other Alaskan cities/boroughs. See, Alaska Taxable 2010, pages 29-35.

In short, at the beginning of this fiscal year, the City of Petersburg had well over \$11 million dollars in unspent, unappropriated funds, while maintaining taxpayer-paid debt at approximately \$5 million dollars, all with a mill rate which is lower than many in the State -- hardly a City with an "out-of-control spending habit" or which "spends beyond its means", as suggested. Such hyberbolic statements, made with scant analysis or explanation, do little to further the legitimate discussion of the issues presented here.

Director for the City, estimates that approximately 15% of the aquatic center's clientele reside outside City limits, in addition to the fact that the school district has a number of students from outside the City limits who also use the facilities as part of their school day.

¹² The bulk of the total cost of the new library construction (\$7 million dollars) comes from state funding and a grant from the Rasmussen Foundation. The taxpayers also approved indebtedness relating to the electric utility, however that indebtedness is paid for exclusively out of utility revenues.

¹³ Additionally, fees paid by residents of the elderly living facility pay 25% of the elderly housing bonds, and harbor users pay 83.33% of one joint aquatic center/harbor bond. The petition noted the state reimbursement on school maintenance, at page 7, but inadvertently omitted the state reimbursement for the aquatic center/vocational education building.

Opposition comments contain a number of either misleading or flatly erroneous statements regarding the finances of the City. For example, one commenter claims that the City's Police Department unnecessarily spent money on "high-speed pursuit vehicles." In fact, the City replaced two patrol SUVs with two standard patrol cars. The SUVs are driven only in the winter months, and the patrol cars are driven the majority of the year. The patrol cars cost less to operate than the SUVs, and get better gas mileage. The patrol cars are not "high speed pursuit vehicles"; they are just standard patrol cars. There are two American car companies who manufacture patrol cars – Ford and Dodge – and the Dodge was chosen. If anything, this shift to more efficient cars demonstrates fiscal responsibility.

Another commenter asserted that Petersburg's nine police officers was "excessive", demonstrating the City's "waste of scarce municipal resources." The commenter failed to note that 1) one officer's salary and benefits is entirely covered by a federal DOT contract, as the department provides seven day per week security for the airport, without which jet service could not be supplied to the community; 2) 25% of all department salaries and benefits are paid by the State of Alaska, as the officers and dispatchers are also correctional officers in Petersburg's state jail facility; 3) ½ of another officer's position is paid by the federal government for participation in the AST drug task force, and 4) another officer position is being funded by a four-year federal COPS grant, which position the City Council does not intend to fund after the term of the grant runs out. Additionally, there is no Alaska State Trooper Law Enforcement Officer (blue shirt) on the island, and the police department is regularly asked by the AST to assist with local criminal case work. Net of the foregoing, the Petersburg taxpayers pay for a Chief of Police (primarily an administrative position) and slightly more than three patrol officers to run a 24/7 police department, assist the AST and other law enforcement agencies, operate a state jail, and allow the residents of the area to enjoy scheduled jet service.

Another commenter stated that "the property taxes of the residents of the current City of Petersburg will have to go up more than fifteen percent in year one of the new borough." This is simply not true, and the budget does not reflect any such increase. A different commenter suggested that a loss of population means a loss of property tax revenue. This, again, is not true. Regardless of population or residency, property will be owned and thus taxable. Another commenter claims that a loss of population will result in a loss of sales tax revenue in the amount of "\$2000 per household", with no explanation as to how that figure was arrived at. That figure is highly inflated, as it would mean that a household is purchasing taxable goods and services¹⁴ in any given year totaling over \$33,000, and doing so on a piecemeal basis, since the City sales tax code exempts from taxation any part of a single or job-specific purchase over \$1200 (or \$72 in sales tax). See, Petersburg Code, section 4.28.120(D) and (E).

¹⁴ Many household purchases are exempt from sales taxes. For example, health care services and utilities, which can be significant expenditures for families, are exempt. See, Petersburg Code, subsections 4.28.120(G) and (N).

A list contained in one of the comments, outlining petition information which is supposedly “inconsistent” with the “inaccurate” petition, cherry picks items from portions of local newspaper articles, without providing a full picture or any reported follow up. For example, the commenter cites a newspaper article which stated that the City was facing a “50 percent health insurance cost increase”, a situation the City had “failed to address”. In fact, the City, after learning of the potential substantial increase in Aetna rates, found a comparable new plan from a different provider which cut the cost of the potential increase by almost 75%. The commenter also cites to language stating that the City has a budget deficit “for the fourth year in a row”, without noting that it was in fact a budgeted deficit only, not a true shortfall in income (as indicated above, the City has well over \$3.5 million in excess of appropriated expenditures in its general fund), due to “loans” from the general fund to a City enterprise fund, namely the assisted living facility.¹⁵ The commenter similarly quoted from an article stating that “City Schools” faced a budget deficit for the “second consecutive” year, failing to note the follow up – in both years, the school district made adjustments during the course of the year to ameliorate any shortfall. The school district also is in the process of changing health care providers, to one with significantly lower rates, at a potential savings of \$200,000. The commenter also discusses the potential lack of timber receipts money, without discussing the fact that the City anticipated that potential loss years ago, unlike many other Alaskan municipalities, and began stockpiling reserve funds for such a rainy day.

The same commenter asserts that the petition’s budget figure is “grossly incorrect with the budget being [sic] \$1.6 million deficit”. To the extent this argument can be understood, the commenter’s conclusion is reached by adding the annual bonded indebtedness figure to the property tax figure for the first year of the conceptual borough budget. If this is his analysis, the commenter’s statement (and the whole of Appendix A to the comment) is based upon a misreading of the budget, in that it fails to note that the property tax revenue figure on page 34 of the petition specifically excludes the amounts collected for debt service payments, because the debt service annual payments are not listed on page 35 of the expenses. Debt service tax revenues and expenses, which are a “wash”, are treated separately from the conceptual borough budget. To do otherwise would be to overstate the revenues in the conceptual borough budget. This is the manner in which the City handles its current general fund budget -- by transferring debt obligation revenues to a debt service fund which is then used to pay the debt service obligations.

Contrary to the persistent gloom and doom projections of many of those filing comments, the economy of the State of Alaska (and of the Petersburg area) is actually doing quite well compared to those Outside. See, 11/6/11 Anchorage Daily News

¹⁵ As is the case with many assisted living facilities, there is a high cost of delivery of services, with significant staffing requirements, combined with low revenue, due to receipt of medicare/medicaid payments.

article, Alaska among the few states with surplus amid deficit.¹⁶ There is an ebb and flow in any municipal budgeting process, depending upon any number of revenue and expenditure factors, and that would be the case for either the City of Petersburg or a Petersburg Borough.¹⁷ During nationwide depressions, recessions and boom times experienced over the last century, the City has functioned successfully, responsibly managing its money, including more recently anticipating the loss of certain federal funding and planning for it. All of Southeast Alaska is faced with declining population and threatened loss of federal funding. Petersburg is in a far stronger position than most. And while no one can predict the future, a Petersburg Borough would likely be in a more sound position than the City, with additional revenues exceeding additional costs. The outside-the-City residents, who rely upon Petersburg and the resulting public services and infrastructure, should share in the overall cost of providing that infrastructure and services.

In apparent recognition that outside-the-City residents regularly use City-financed improvements, several commenters suggest that the existing City sales tax is sufficient to cover those costs¹⁸, or that rather than borough formation, the City should institute a system of user fees. In fact, City sales taxes and user fees would not be sufficient to cover all of the municipal services provided, and many benefits of municipal services (road maintenance and snowplowing on City maintained roads, for example) must be borne by all. Schools are a perceived benefit for all, regardless of whether a taxpayer currently has a child in school --- in fact, many City residents do not, while a number of outside-the-City residents do. The existence of a fire department, police department,

¹⁶ The article notes that "Oil-rich Alaska took in nearly \$1.9 billion more than expected last fiscal year thanks largely to high oil prices, and ended the fiscal year with an estimated \$260 million surplus, an amount equal to nearly 4% of its general fund." The article quotes an Alaska labor department economist to the effect that "I don't think you can say we're out of the woods", as "[w]e were never in the woods."

¹⁷ For instance, sales tax revenue increased from \$2.1 million dollars to \$2.4 million dollars in 2000, slowly decreased for several years, back down to \$2.1 million dollars, then increased to \$2.5 million dollars in 2004, then decreased to \$2.4 million dollars in 2005, then increased again in 2006 to \$2.7 million dollars, steadily increasing over the next several years to \$2.8 million dollars, and decreasing in 2010 to \$2.6 million dollars. Thus, increases and decreases have happened before, and will no doubt happen again.

¹⁸ It is difficult to ascertain how much sales tax is actually paid by those residing off Mitkof Island. Several commenters describe themselves as 'retired' or 'older', and thus many may qualify for the Senior Citizen tax sales exemption, found at Petersburg Code, section 4.28.130. This exemption is available to any state resident, sixty-five years of age or older.

and EMS system is beneficial, regardless of whether one ever actually does need it.¹⁹ The same can be said for the City library, used by both City and outside-the-City residents, which has no user fees. No government at any level can fully function on the basis of user fees, and in many cases, the administrative cost of imposing user fees would be greater than the net revenue from those fees. Even where user fees are currently being imposed, they are often insufficient to cover costs. For example, the City imposes moorage fees at the harbor, which is utilized by outside-the-City residents, but moorage fees are insufficient to cover the entire harbor budget, which is subsidized by other City funds. 25% of the harbor budget is funded by shared state fish business tax revenues, which would not be available were there no municipal government. See, A.S. 43.75.130.

A number of the commenters also suggest that they should not be included in a Petersburg Borough because the residents living outside City limits were either not consulted or were disregarded in development of the borough charter and/or the petition, and that the charter fails to include protections for those residents. This is simply not true.

The Petersburg City Council formed the Borough Charter Commission in 2006. Of the nine appointed members, four lived outside City limits, including one from Duncan Canal (Bob Lynn), one from Keene Channel (Mona Christian), one from the City of Kupreanof (Tom Reinarts, who was also a Kupreanof elected official), and one from outside City limits on Mitkof Island (Gerry Merrigan). Of the City residents on the Commission, at least three also owned property outside the City, one at Papke's Landing (Vikki Hicks), one down Wrangell Narrows (Sam Bunge), and another at Keene Channel (Harold Medalen).

The Charter Commission held numerous meetings, over several months, and prepared a draft charter, which was presented to the City Council in October of 2006. (See,

¹⁹ Despite the statement by one of the commenters that off-island residents are beyond a reasonable response time for emergency services, the City has sent an ambulance boat, with EMTs aboard, to Keene Channel twice in the last six months alone to assist one of the commenter's Keene Channel neighbors and transport him into town. The fact that this is not a daily occurrence is why a 4 mill property tax rate is proposed outside of Service Area 1, rather than the 10 mills to be imposed within Service Area 1. The petition, at pp. 69-71, outlined 77 instances where the Petersburg Volunteer Fire Department and local Search and Rescue responded to calls for assistance outside City limits, and within the proposed Borough boundaries. Since the date of the petition, in mid-August of last year, there have been an additional seventeen calls from outside the City, including two to Pt. Agassiz and two to Keene Channel. One of the commenters, without benefit of factual support, suggests that the majority of those were for City residents. Another commenter, again without any support, suggests that they were for "non-resident, vacationing transients."

Attachment 3). The October 2, 2006 cover letter by the Charter Commission to the Council states that “[t]he Commission has reviewed every section of this charter and through consensus we believe the Charter is the best product to provide guidance and direction for a new borough.” Id.

Contrary to one commenter’s statement that “no further meetings were held” after October 2006, the Charter Commission met again in February of 2007, both to address questions regarding the charter presented to it by the City Council, and to consider the City Council’s request to review the draft borough petition. The Commission met again on March 18, 2007 to review and comment to the Council on the draft petition.²⁰ In July, 2007, the Council met and noted that the original draft of the petition “is being thoroughly amended to mirror the Borough Charter that was recommended by the Charter Commission and approved, with amendment, by City Council in April.”²¹ At a Council meeting held in September, 2007, it was noted that the revised petition had been provided “to Council, Charter Commissioners and Planning Commissioners”. In November, 2007, the Council was advised that comments and reviews submitted by various individuals had been incorporated into the most recent draft. Thereafter, the petition and charter were finalized for circulation. When the petition did not receive sufficient signatures at that time, upon first circulation, it was updated in 2010 and successfully circulated.

The suggestion that the City did not involve residents from outside the City limits in the charter and petition process, seek their opinions, and consider their views is therefore flatly wrong.²² Non-City residents had a significant amount of involvement in the process, both by way of charter preparation and petition review.

²⁰ In fact, the commenter who stated no meetings were held after 2006 was actually on the Charter Commission and present at the March, 2007 meeting.

²¹ For example, the October 2, 2006 Charter Commission cover letter notes that the earlier draft petition “now needs to be revised” as service areas were no longer being defined. “No service areas are created by the Charter. Each new service area requires a vote on specific ordinances.” See 10/2/06 letter, Attachment 3.

²² Commenters erroneously alleged that no one “living off the grid” or “representing the City of Kupreanof” participated in development or review of the charter or petition. Again, as noted above, several people residing off Mitkof Island, including a Kupreanof City official, participated. Similarly wrong is the statement that “no public meetings” were held on the charter or the petition between October 2006 and October 2010. In fact, there were over twenty five City Council meetings and two Charter Commission meetings held during that period, at which the petition was reviewed, commented upon or otherwise discussed.

Furthermore, the Charter prepared by the Charter Commission, and delivered to the Council in October of 2006, is nearly identical in substance to the Charter contained in the Borough petition. The statements made by several of the commenters regarding the petition's Charter -- that the City "disregarded much of what the original borough committee worked long and hard to accomplish", that the City Council "promptly made significant amendments to [the Charter] that benefit Petersburg", and that "since the Charter Commission completed their work in October 2006, numerous changes have been made to the document" -- are unsupported by any discussion or analysis of those supposed changes. These statements are in fact completely untrue.

A comparison of the October 2006 proposed charter (Attachment 3) to the Charter contained in the petition, at exhibit H, demonstrates that 1) the numerous protections put into the Charter by the Charter Commission for the benefit of the outlying residents were not in fact changed; 2) there are very few differences between the two documents; and 3) those differences are primarily to ensure compliance with statutory provisions or clarify ambiguities or inconsistencies.

The 2006 draft charter included a number of provisions beneficial to outlying residents. These included 1) a provision stating that outlying residents would not be responsible for any preexisting bonded indebtedness unless the asset for which the indebtedness was incurred was used for an areawide purpose (Section 19.07); 2) language providing for notice of assembly matters to all residents by postings in Kupreanof, Papkes Landing and the Post Office, and consideration of an ordinance at no less than three assembly meetings (Section 3.02(B) and (C))²³; 3) sections which ensure resident participation in formation of land use regulation outside Service Area 1 (Sections 7.04 (City of Kupreanof) and Section 7.05 (other areas)); 4) protections for the continued existence and autonomy of the City of Kupreanof (Article 15); 5) terms mandating resident voter approval for all matters relating to service areas except for de minimis changes (Section 14.03); and 6) non-application of existing City ordinances outside existing city limits (Section 19.06).

All of these same basic provisions remain in Exhibit H, the Charter presented in the petition. The protection provided in Section 19.07 (bonded indebtedness) was in fact made absolute, as the potential exception for an asset used for an areawide purpose

²³ One of the commenters stated that one thing they had "asked for was when a new ordinance was introduced we have a months time before it was voted on", as "[m]any of us get to town twice a month and in the winter only once. One months time would give us an opportunity to review the ordinance." The commenter goes on to state that this wasn't provided for in the Charter. In fact, the Charter gives residents at least six weeks to review an ordinance, as the assembly would meet only twice a month. This same commenter also stated that they "asked to be allowed to send a letter to comment on a proposed ordinance." Absolutely nothing in the Charter or petition would prevent them from doing so.

was eliminated by the City Council. Furthermore, the City Council eliminated the 'de minimis' exception for creation of service areas, thus mandating voter approval of all changes.

The only difference of substance is found in Subsection 19.07(B). As contained in the 2006 Charter (p. 33), the existing sales tax was to remain in effect within City limits, and "[w]ithin one year from the first election under this Charter, the assembly must review the levy of sales and use taxes and determine whether they should be applied on an area wide basis throughout the borough...." This was not truly workable, as it conflicted with another provision of the Charter (subsection 12.02(B) at p. 20), which provided that the voters, not the assembly, ultimately approve any changes to sales tax. Accordingly, the language of 19.07(B) was amended to provide for areawide application of sales tax upon borough formation, with the language mandating voter approval of any changes maintained.²⁴

The bulk of the other changes are relatively minor and were made:

- to ensure compliance with statutory provisions -- i.e., in the 2006 draft, the initial transition terms for the borough assembly, school board, planning commission and medical board were to be determined by vote count, however A.S. 29.05.120 mandates that the initial terms be determined by lot; or

- for syntax or clarification purposes -- i.e., 1) language was deleted from Section 1.03(A), as indicated: "The boundaries of the borough shall be as depicted on the map as approved by the Local Boundary Commission ~~that is how they exist~~ on the date of ratification of this Charter."; 2) Section 13.01(a) stated that revenue bonds required voter approval, while section 13.04 required only assembly approval for revenue bonds. This conflict was addressed so that the requirement of voter approval was maintained; 3) the language regarding the borough clerk was moved from section 2.12 to section 4.04 (Administrative Departments) to clarify who appoints and supervises the clerk; 4) language was added to 6.01(C) (Initiative and Referendum), as that subsection had contained language addressing post-adoption changes to initiative matters, but not referendum matters; 5) subsections 2.10(A)(2) and 11.13(E), regarding purchasing and contracting by borough officials and employees, had overlapping, inconsistent provisions, which were corrected; 6) the word "mal-conduct", in section 13.10, was changed to "malfeasance, misconduct"; and 7) section 19.03 (Personal Financial Interest and Nepotism) was lacking an enforcement process, so one was added.

²⁴ Several of the commenters note that there is minimal commercial activity going on off of Mitkof Island at this time, only some of which would be subject to taxation, so this change should have little impact. The petition estimates only \$141,728 will be generated in sales taxes outside of the current City limits (compared with approximately \$2.7 million generated within Service Area 1).

Accordingly, the numerous comments regarding changes to the 2006 draft charter, made "to benefit Petersburg", are simply ill-informed and incorrect.

In summary, the residents of the Petersburg region are in fact interrelated and integrated as contemplated for borough formation. Area residents have been repeatedly consulted throughout this process, and their input was incorporated into the Charter and petition development and review procedures. While some residents live more rural lifestyles than others, this is exactly what was contemplated by the regional borough concept, and the differentials in benefits from municipal services are accounted for in the 4 mill rate to be levied outside Service Area 1, the minimum levy for support of public education. It is undeniable that persons residing outside the City limits use Petersburg as a regional hub. Satisfaction of the interrelated and integrated standard is illustrated by the comment of two residents of Keene Channel.

During this process we have asked ourselves one basic question: Could we live the life style we enjoy if Petersburg did not exist? While it would be possible, the practicality of access to the Community Hospital and Clinic, Airport, Ferry Terminal, Barge Companies, City Boat Harbor, and other retail establishments would be difficult. ... Over the years the local police and volunteer fire department have responded many times to Keene Channel and Papkes Landing. While we have been fortunate enough not to require these emergency services, we have called for support several times on behalf of our neighbors. We also use the City Public Library very extensively. While we do support the City of Petersburg by our paying sales tax and the inclusion of our numbers during the grant process from the State and Federal Government, we receive few services. We feel the Charter by only requiring all newly incorporated areas be responsible for a 4 mil levy as required by State Statute for the support of public education will ensure the tax fairness between us and the current City of Petersburg. ... Only by providing a strong support for public education can we assure ourselves of the vibrant and at times very contentious democracy that we all enjoy. (D. Kensinger/M. Christian comment)

B. AS 29.05.031(a)(2) – The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services.

Several commenters describe the area as "huge", "too big", and "unusually large", and assert that the boundaries do not follow natural geography because they do not include all of Kupreanof Island, including the City of Kake.

In fact, the Petersburg Borough would not even be in the top ten, by size, of Alaskan Boroughs. There are currently 18 boroughs in Alaska, and the proposed borough of Petersburg, which is 4,347 sq. miles, would be ranked only 12th. Larger boroughs

include the Ketchikan Gateway Borough (6,262 sq. miles), Kodiak Island Borough (12,150 sq. miles), City and Borough of Yakutat (9,251 sq. miles), and the City and Borough of Sitka (4,530 sq. miles). Nine Alaskan Boroughs (Denali Borough, Lake and Peninsula Borough, North Slope Borough, Northwest Arctic Borough, City and Borough of Yakutat, Aleutians East Borough, Kenai Peninsula Borough, Kodiak Island Borough and the Matanuska-Susitna Borough) are in excess of twice the size of the Petersburg Borough, with six of those boroughs (Lake and Peninsula Borough, North Slope Borough, Northwest Arctic Borough, Aleutians East Borough, Kenai Peninsula Borough, and the Matanuska-Susitna Borough) being in excess of three times the size. The largest borough in Alaska – the North Slope Borough – is over nine times the size of the proposed Petersburg Borough.

Additionally, as set out in detail in the petition (page 85 and exhibits 6A through 6C), the boundary line utilized on Kupreanof Island follows natural ridgelines and watersheds, modified (to Kake's advantage) to previously stated traditional tribal territory. LBC statutes and regulations acknowledge these factors as a basis for borough boundaries. See, A.S. 29.05.031(a)(2) and 3 AAC 110.060(a)(2) and (5).

Even before the cited regulations, drainage patterns were utilized by the LBC as a basis for establishing boundaries between boroughs. In 1988, the Commission resolved a boundary dispute arising from its concurrent consideration of a petition to incorporate the Lake and Peninsula Borough and petition for annexation filed by the Kodiak Island Borough. Both boroughs sought to include lands on the north side of Shelikof Strait on the mainland across from Kodiak Island, within their respective boroughs. Because the rivers draining the region more directly affected the economy of Kodiak, whose fishermen harvested fish which spawned in these drainages, the LBC authorized annexation of the area by the Kodiak Island Borough. See Statement of Decision, Matter of Proposed Incorporation of the Lake and Peninsula Borough, p. 1. This was also based upon geographic considerations, because the LBC concluded that

“The Aleutian Range on the Alaska Peninsula, which determines river drainage patterns, serves as a natural topographical divider for those rivers that drain into Shelikof Strait. The Strait in turn unites the rivers on Kodiak Island with these same rivers as a common drainage basin.”
Statement of Decision, p. 5.

Several of the commenters assert, without benefit of authority or support, that the boundaries of the Petersburg Borough excludes the western portion of Kupreanof Island, and the city of Kake, because of signatory requirements. This is not true. Kake was not included because inclusion of Kake would simply not meet the statutory and regulatory standards of interrelated and interconnected communities.

C. AS 29.05.031(a)(3) -- The economy of the area includes the human and financial resources capable of providing municipal services

Much of the discussion regarding the regional economy of the Petersburg area is set forth in section A above, however a few additional points merit further discussion here.

Several commenters complain that there is no plan, or revenue forecast, in the petition to provide any services, other than education, taxation and planning, on an areawide basis. This is correct. For the minimum 4 mill public education levy, those are indeed the services to be provided on an areawide basis at this time.²⁵ It should be noted that this does not prevent the outlying area residents who pay 4 mills from enjoying other municipal services provided by the borough (such as fire and police protection), or the benefits of municipal services when visiting Service Area 1, as is frequently the case (e.g., maintained and plowed roads, harbors, the aquatic center and the library). Reduction in the level of benefits received from services, the further you get from a borough seat, is typical in Alaska. The Borough Charter, developed by a Charter Commission made up of City and outside-the-City residents, contemplates that the area residents themselves will determine what, if any, further services they desire, through development of service areas, rather than having service areas forced upon them as part of the petition process.

The 4 mill levy of this proposed Borough would be one of the lowest mill rates established for any area of an Alaskan Borough. For example, the entirety of Baranof Island, in the City and Borough of Sitka, pays the same mill rate – 6 mills – even those off-road areas far from the borough seat. The lowest mill rate reported in the Kenai Peninsula Borough is 5.90. 7.19 is the lowest mill rate in the Haines Borough. In the City and Borough of Yakutat, the off-road property is taxed at 7.0 mills, including the Icy Bay area, which is much further from the borough seat than Keene Channel or Duncan Canal are from Petersburg. The lowest mill rate reported by the Ketchikan Gateway Borough is 5.80. Only the outlying areas of the City and Borough of Wrangell and a small portion of the Skagway Borough enjoy a comparable or smaller mill rate (4 mills and 1.44 mills, respectively). See, Alaska Taxable 2010, pages 29-35.

Another commenter states that the petition is inadequate as it does not establish a system to provide for educational needs outside of the Borough's current roaded area. In fact, no system is necessary at this time, as discussed at page 45 of the petition. Currently, all of the students residing outside of city limits, and within the proposed borough, are already attending Petersburg schools. There are no students living within the proposed borough, off the roaded system, currently receiving educational services

²⁵ Many of the commenters argue that only limited services are to be provided on an areawide basis, yet inconsistently argue that they don't even want to pay the minimal 4 mill rate for those services.

from Chatham or Southeast Island REAAs that will be leaving those districts as a result of borough formation. If there are sufficient students desiring such services in the future, the school district can address that issue, by development of a correspondence program or by other means.²⁶ The Petersburg School District would, in fact, welcome more students, and supports borough formation (see, comment of Dr. Robert Thomason, Superintendent, Petersburg City Schools)

Some commenters, while arguing that the 4 mill rate is too high, simultaneously argue that the amount of money to be collected from property and sales taxes in the area will not be sufficient to govern the area.²⁷ Much of the analysis put forth is based upon a contrived effort to invent expenses to support their argument. The borough is simply not going to need a new fleet of boats (it already has adequate facilities), a “licensed six pac operator”, or a host of new equipment “needed to do off island work”.²⁸ Ironically, a

²⁶ Contrary to assertions in a recent letter to the editor in the Petersburg Pilot, the borough school district would not be required to initiate a correspondence program if even one student desired it. The school district could simply support that student’s enrollment in one of the numerous statewide correspondence programs.

²⁷ Some of these same commenters, while arguing that only a relatively small amount of money will be raised from outlying areas from property and sales taxation, inconsistently argue that the City views the outlying areas as a “cash cow” to solve its financial problems.

²⁸ One commenter, who resided in Petersburg while working for the U.S. Forest Service, and who has now apparently retired to Duncan Canal, suggests that a minimum of \$.20/acre (or a total of \$430,000) should be deemed the base cost for area management. This figure has no specific application to the borough – the borough is not going to be performing the same functions as the Forest Service or whatever business that the commenter was comparing it to. Interestingly enough, that same commenter also suggests that there will be increased “lobbyists cost” not accounted for in the borough budget. In fact, the City is already incurring the cost for lobbying related to the entire region. For example, the City’s lobbyist recently notified it that Arizona Senator McCain intended to offer an amendment in committee to the Postal Reform legislature which would allow the Postal Service to continue to provide bypass mail service in Alaska only if the State reimbursed the agency for the cost of that service, an action which might effectively kill bypass mail service. Bypass mail service is vital to the region, including to the outside-the-City residents, and Petersburg’s lobbyist is actively working to kill the McCain measure.

Additionally, to suggest, as one commenter does, that municipal entitlement lands are a net added cost to the borough is absurd. When the borough obtains entitlement lands, it will add positive net revenue and value to the Borough, upon sale or lease. Moreover, Private land in the area is scarce, and entitlement lands could add to development potential within the area.

number of the items which the commenters suggest will be needed to provide services to the outlying areas of the borough (such as the harbor security boat, with operator, which is also utilized as an ambulance) are already owned by the City and already used to provide services to outside-the City residents.

The \$80,000 budgeted for initial borough-wide assessment purposes, a figure questioned by a number of commenters, is the estimate provided by the City Assessor, a well-qualified firm with extensive municipal assessment experience in Southeast Alaska, who recently completed the Wrangell Borough assessments. The petitioners have every confidence that that figure is accurate. These initial assessment costs, as well as other organizational costs, including new property data software, update of land records, development of a borough comprehensive plan, legal assistance with ordinance review, and communications meeting and travel, are already fully accounted for in the transition expenses portion of the budget (p. 36 of the petition), to be funded by the state borough formation organizational grant – in place to cover just these types of expenses. Simply put, there is not going to be more further services, or further expenses, without development of service areas.

D. AS 29.05.031(a)(4) transportation and communication facilities

A number of commenters have argued that areas off Mitkof Island should not be included in the proposed Borough because travel to and from the areas is predominantly by boat, which can be difficult depending upon weather conditions, and thus argue that the 'transportation facilities' standard is not met.

It should be first noted that boat travel is a traditional and highly customary form of transportation in Southeast Alaska, an area dominated by sparsely populated islands and waterways.²⁹ If, as the commenters seem to be arguing, one must be connected to the seat of government by roadway, the bulk of Southeast Alaska (and indeed a good portion of the State of Alaska as a whole) could never have been placed into a borough.

Secondly, travel to the existing City of Petersburg from the most populated areas off Mitkof Island is for far shorter distances, in much more protected waterways, than in most other boroughs in Southeast and other parts of coastal Alaska. Travel from the

²⁹ By regulation (3 AAC 110.045(d), when determining whether exchange patterns are sufficient, the Commission's consideration may include whether "all communities within a proposed borough are connected to the proposed borough seat by ... a charter flight service based in the proposed borough, other customary means of travel including boats and snow machines, or sufficient electronic media communications;" (emphasis added). In addition to boat travel here, there are a number of charter flight services based in Petersburg.

City of Kupreanof to the current City limits is approximately $\frac{3}{4}$'s of a mile across Wrangell Narrows, which in a 15 mph skiff takes approximately five to seven minutes.³⁰ From Green Rocks, a small hamlet approximately 7 miles down Wrangell Narrows, travel time to the City would be approximately thirty minutes at this speed. Green Rocks is directly across Wrangell Narrows from Papke's Landing, and travel time to there would be only 5 to 7 minutes. Keene Channel to the City is approximately 13 nautical miles. There are residents in Duncan Canal, approximately 16 nautical miles from the City, along Duncan Canal, through Beecher Pass, and into Wrangell Narrows. As noted above, Wrangell Narrows, Beecher Pass and Duncan Canal are amongst the most protected waterways in all of Southeast Alaska.³¹ Located across Frederick Sound, which is a more open waterway, are Point Agassiz (8 nautical miles) and Farragut Bay (24 nautical miles)

By contrast, boat travel required in other Southeast Alaska boroughs is for much longer distances, and along much more exposed (and therefore dangerous) waters. For example, from Meyers Chuck to Wrangell, in the Wrangell Borough, is 45 nautical miles, partially along the exposed waters of Clarence Strait. From Baranof Warm Springs and Hidden Falls Hatchery to Sitka, in the City and Borough of Sitka, is approximately 80 miles along Chatham and Peril Straits. The distances to Yakutat from Icy Bay and Cape Yakataga, in the Yakutat Borough, are approximately 75 and 100 miles, respectively, along the open Gulf of Alaska. From Excursion Inlet to Haines, is about 95 nautical miles along the often treacherous waters of Icy Strait and Lynn Canal. In Southcentral Alaska, in the Kodiak Island Borough, the village of Old Harbor is approximately 75 miles, and Karluk/Larson Bay are both about 85 nautical miles, from Kodiak, in the open waters of the Gulf of Alaska or Shelikof Strait.

³⁰ In fact, a number of people who live on Kupreanof Island, and who filed comments opposing borough formation, work in the City of Petersburg, often on a daily basis. For example, the commenters include the Petersburg Postal Clerk, the current Fire Station construction manager, a hairdresser, a piano teacher and another who gives knitting lessons, and several who own commercial fishing vessels with a homeport of Petersburg. In fact, for over 20 years, ending in the 1970's with the declining population of Kupreanof, a school boat picked up students in Kupreanof (then known as West Petersburg) and returned them on a daily basis during the school year. Also, as is discussed in section A above, two of the commenters were also on the Charter Commission, and were thus apparently able to adequately attend the numerous Charter Commission meetings held over the course of several months in 2006.

³¹ The residents of Green Rocks, Keene Channel and Duncan Canal also have the option of traveling by boat to Papke's Landing, and driving the remaining distance to town, significantly reducing the length of the boat trip. A number of off Mitkof residents maintain vehicles as Papke's for this purpose. (See, L. Howard comment).

In short, while the commenters' complaints are somewhat understandable, their travel to the seat of borough government would be relatively easy in comparison to other communities in the State of Alaska, where remotely populated, 'off-road' areas are often the norm, and the borough seat is reachable only via lengthy boat trips, charter flights or even dogsled or snow machines. Most of the residents of the proposed Petersburg Borough would live within a one hour drive or boat ride to the seat of government.

Similar arguments were raised by borough formation opponents almost forty years ago, in the case of Mobil Oil Corporation v. Local Boundary Commission, *supra*, in connection with formation of the North Slope Borough. Property owners argued that the transportation standard had not been met because of the limited means of travel in the area, an argument rejected by the Alaska Supreme Court.

Regular travel among borough communities is available only by charter aircraft. Surface transportation is limited to dog teams and snowmachines. Even at this stage of development, we agree with the superior court that the [Local Boundary] Commission could reasonably have found travel facilities adequate to support borough government when present and future capacity is considered **in the context of transportation in Alaska generally and compared to the present cost and availability of travel to centers of government which affect the lives of North Slope residents.**

Id. at p. 100 (emphasis added).

While the commenters opposing a Petersburg Borough complain about the distance to the borough seat of government, it is noteworthy that the 'center of government' of the State of Alaska, and thus the unorganized borough, in which these areas are currently located, is Juneau, Alaska, which is significantly further, across much more dangerous waters, and much more expensive to reach via air carrier, than is Petersburg.

Additionally, the electronic media communications within the proposed borough is currently adequate to meet borough formation standards, and is in fact steadily improving. A number of those opposing borough formation acknowledge that they have both cell service and internet service (using the Starband system and/or boosters).³² The City of Kupreanof enjoys excellent cell coverage and 3G internet service. Farther down the Narrows, other residents also have cell and internet services. (See, comments of G. Cole; K. Howard; I. Lynn).³³ These services are steadily improving. GCI is installing new cell towers in the Petersburg area by the end of the year, which is

³² "Many rural residents are acquiring Internet access through the Starband satellite system." G. Cole comment, p. 6.

³³ In fact, many of the comments submitted to the LBC by outlying residents were submitted via email.

anticipated to improve and extend coverage, including to certain parts of Kupreanof Island and the mainland across Frederick Sound, including Pt. Agassiz. The 'spottiness' of some of that service is no different than that experienced across the more remote areas in other Alaskan boroughs. Marine (VHF) radio is also a traditional means of communication within the region, and has a line of sight range of approximately 25 miles. There are also traditional 'landlines' available in many places on Mitkof Island.

The Petersburg Borough could consider the installation of conferencing equipment in one or more outlying areas of the Borough, if there is sufficient interest.

The public radio station based in Petersburg (KFSK) has a range which covers the entire proposed borough, north to south, and east to west. The station carries the City Council meetings live, and also sends messages.

E. Miscellaneous comments

I shouldn't be taxed for things I don't need or use.

Residents outside Service Area 1 constitute 10% of the population and "will be entitled to receive direct benefit from 10% of future revenues from [state and federal] sources. There is nothing in the proposed charter that addresses how this obligation will be met.

One basic and accepted role of government is to provide various types of infrastructure and services which are not necessarily utilized by each and every citizen on an equal basis, but towards which every citizen is expected to contribute through taxation. Municipalities establish libraries, which not every resident uses. Municipalities provide bus systems, while many of their residents own and drive individual automobiles. Municipalities have police and fire protection, which many of their residents will fortunately never need to use. Perhaps most importantly, municipalities provide education to school age children, while many of their residents do not and may never have children. Simply put, one is not exempt from taxation simply because he or she may not utilize all of the services which a municipality provides through such taxation.³⁴

Furthermore, no resident, or any specific group of residents, of a municipality is entitled to receive a "direct benefit" of a specific percentage of proceeds obtained by a municipality based upon any population ratio. Many, if not most, of the benefits of municipal services are received indirectly. Petersburg's businesses, postal service,

³⁴ One commenter indicates a willingness to support public education, but suggests that it "be in the form of contributions, not taxation". Unfortunately, not all could be counted on to contribute voluntarily.

airline and freight services, and all of its other public and private infrastructure could not exist without the municipal services we take for granted – street maintenance, snow removal, police and fire protection, water and electrical facilities, a hospital, boat harbors, and all the rest.

“The taxation of outlying areas should be clearly stated. What mil rate will be charged outside Service Area one, the current City of Petersburg Boundary?”

The four mill tax rate to be levied outside of Borough Service Area 1 is set out in numerous places in the petition, including at page 6 (at Subsection 11-E, Taxes projected to be levied by the proposed borough) and page 37 (Note 1 to Four-Year Borough Operating & Transition Estimated Budgets).

“Will I need to go to town every time I want to burn on my beach, build a wood shed or garden room?”

“We are on the verge of losing a way of life, because of restrictions and zoning laws brought on by the forming of a borough.”

There will be no areawide ‘restrictions and zoning laws’ upon borough formation. The Charter (exhibit H of the petition) states that upon borough formation the existing City ordinances and resolutions (including land use regulations) apply within the former City limits only (Service Area 1), excepting sales tax ordinances. Section 19.06. The Charter contemplates that advisory committees will be established for other neighborhoods, so that the manner and extent of regulation desired by each neighborhood can be established. Section 7.05. The authority for platting, planning and land use regulation within the City of Kupreanof is specifically vested with the City of Kupreanof. Section 7.04.

“[T]he Petition and accompanying documents fails [sic] to adequately protect the independence of the City of Kupreanof.... [T]he planning process for the proposed Petersburg Borough occurred without the opportunity for full participation by the City of Kupreanof, in violation of several laws which mandate an open and transparent process....”

Article 15 of the Charter fully protects the autonomy of the City of Kupreanof. It states, in relevant part, as follows:

The City of Kupreanof shall remain a separate municipal entity and shall retain all powers which it had prior to the effective date of this charter. The City of Kupreanof may, to the extent permitted by law, continue to exercise those powers that it exercised within its boundaries prior to borough

formation even though the borough exercises those same powers on an areawide basis.

This language was included in the Charter, as prepared by the Charter Commission in 2006. Tom Reinarts was a member of the Charter Commission, and an elected official of the City of Kupreanof. When the City renewed its borough formation efforts in 2010, its City Manager attended a Kupreanof City Council meeting, on June 9, 2010, to inform and update it. See, petition, page 56.

"[T]he citizens of Kupreanof may become liable to retire the bonded indebtedness previously incurred by the City of Petersburg for facilities that do not benefit them and for which they did not vote."

The Borough Charter clearly states that "[b]onded indebtedness of the former City of Petersburg will, following borough formation, be the obligation of Service Area 1 only." This is the case regardless of whether, in reality, these facilities do benefit Kupreanof City residents, who live approximately five minutes from town, and many of whom work and travel to town daily.

"It would not be right for people in Kake to be taxed to provide services for Petersburg."

The only manner in which Kake residents could 'be taxed' would be if they own property within the Petersburg Borough. It would be no different than a resident of Anchorage owning property in the Mat-Su Borough; property is subject to taxation regardless of whether the owner of that property resides within the taxing jurisdiction. It is not known how many Kake residents, if any, own any such property.

"The Petition fails to clearly outline the implementation procedures for integrating the outlying residents of the Borough."

The petition contains an extensive transition plan (at Exhibit D), which includes discussion of 1) how areawide taxation, planning and education will be extended borough-wide, including implementation of a borough tax and mapping system, parcel assessment, development of a comprehensive plan, and extension of necessary educational services, and 2) how non-areawide powers can be extended beyond Service Area 1 on a service area basis.

"There will be added to us another layer of government."

There will not be 'another' layer of government, as the City of Petersburg will dissolve upon borough formation. There are currently two governmental units – the City of Petersburg and the City of Kupreanof. Upon borough formation, there will be two governmental units within the borough – the Petersburg Borough and the City of Kupreanof. The City of Kupreanof will remain because their residents requested this, and the borough petitioners respected this request.

"Due to our small numbers, we will be disenfranchised by the Borough process."

This is only true if one assumes that all residents outside Service Area 1 think exactly the same, and completely different from, all residents inside Service Area 1, who are also assumed to think exactly alike. As discussed above, this assumption lacks any support. In a regional borough, it will always be the case that some areas of residency are larger than others. For example, compare the population of Meyers Chuck (25) with that of the more populated area of the Wrangell Borough (approx. 2,344); Saxman (411) with that of the City of Ketchikan (8,050) or with the entire Ketchikan Gateway Borough (13,477); and Chickaloon (272) with Wasilla (7,245) or the Matanuska-Susitna Borough as a whole (88,995). Thus, in comparison with other Alaskan Boroughs, the 297 residents outside the existing City (with 2,973 residents), and within the proposed borough, will have a much larger voice.

It isn't fair to include power, water and sewer improvements made by a property owner outside Service Area 1 in the property's assessed value.

Assessments procedures are dictated by state statutes, and mandate that property be assessed at its full and true value. Thus, improvements made by property owners both inside and outside Service Area 1 would be considered. It should be noted that a property off the roaded system will have a lower "full and true value" than an identical property on the roaded system, due to the distance from municipal services, which affects its market value and therefore its tax burden.

The 4 mill property tax collected outside Service Area 1 isn't really going to schools, because it will be deposited into the borough's general fund.

The state educational funding mechanism requires that a municipality contribute to its school district an amount equal to a 4 mill tax levy on the taxable property value within that municipality. See, 14.17.410(b)(2). The taxes are collected by a municipality, as school districts in Alaska have no independent taxing authority, and the necessary amount then is paid over to the school district. While the petitioner does not fault the

commenter for not fully understanding the school funding process, which can be complex, it is unfortunate that, in the face of that lack of understanding, the commenter chose instead to accuse the petitioner of “lying” or “ignorance”.

There is no indication that the State or another borough is considering annexing or incorporating the area proposed in this petition.

The City and Borough of Juneau has in fact opposed the petition as to the Stephens Passage area north of Cape Fanshaw, with which Petersburg has a stronger connection than Juneau, and has now filed a petition to annex that same area. The City of Kake, which has also opposed the petition, has previously indicated that it intends to file an incorporation petition including all of Kupreanof Island, but the status of that petition is not known.

“It is not a just and equitable statute that allows 15% of a small group – the number who voted in the last election – to open the door to a process that the other 85% oppose.

“Another issue of concern is the fact that the only requirement for petition signers is they are a registered voter within the area to be incorporated. There is no requirement that those voters have ownership of anything, real or personal property ie: taxable property.

The procedure to establish a borough is mandated by statute, including the requirement that the petition filed with the department, which initiates the process, contain the signatures of both 1) 15% of those who voted in the last general election within any home rule and first class cities within the proposed borough, and 2) 15% of those who voted in the last general election within the proposed borough but outside of such cities. See, AS 29.05.060(7). The petitioner has fully complied with this requirement, which has been in place for decades. See, AS 29.18.050, predecessor to AS 29.05.060. Dissatisfaction with this process should be directed towards the Alaska Legislature.

We asked for a tiered taxation system.

A tiered taxation system is exactly what the petition contemplates, except that rather than have the petition determine the tiers – i.e. the areas to be consolidated into service areas, the services to be provided in those service areas, and the taxation to be imposed to provide those services – the petition contemplates that this will be done later, after borough formation, and only at the request of those affected by such a service area. See, Charter section 14.03. This allows the individual area residents to determine what services they actually want, and what they are willing to tax themselves

to pay for. This system was inserted specifically by the Charter Commission to benefit the outlying residents. (See, Attachment 3, 10/2/06 cover letter).

Seniors and others living off Mitkof Island will be 'taxed out' of their homes and foreclosed upon

As indicated elsewhere in this brief, property tax assessments take into account the lack of road access and distance from municipal services. In the experience of the current Petersburg City Assessor, people "consistently overestimate" the value of their remote property for assessment purposes.³⁵ Furthermore, if many residents of outlying areas are indeed retired, as they describe themselves, they would be entitled to the mandatory senior citizen real property tax exemption, found at AS 29.45.030(e), which exempts the first \$150,000 of the assessed value of real property owned and occupied as the primary residence by any resident 65 years of age or older.

In any event, the personal financial circumstances of the 297 outside-the-city residents is irrelevant. Many people live subsistence, self-reliant lifestyles within taxing jurisdictions, including no doubt many people currently living within the city limits of Petersburg. The State of Alaska is, by far, the most tax-friendly state in the union. There is no State income tax, no State sales tax, no State inheritance tax, and exceedingly low real property tax rates compared to the lower 48. In addition, residents actually receive money from the State, by way of a Permanent Fund Dividend. To live in Alaska and complain about taxes is to ignore these facts.

The petitioners suspect that most of the talk about property foreclosure is in large part a tactic meant to scare residents into opposing the Borough.³⁶ Municipal tax foreclosures are actually very rare in small town Alaska. The City itself has obtained property by foreclosure only once in the last decade, and on that occasion it was on an dilapidated trailer which had been abandoned. Several commenters discuss Frederick Point, an area located within the existing City limits, referring to its "inequitable tax structure", and how the borough shouldn't be formed until the City addresses this issue. There are 73 parcels in Frederick Point, 58 of which are privately owned (the State owns the remaining 15 parcels). Not one parcel in this area has been foreclosed on by the City. In the last four years, of the 375 tax appeals filed within the City, only five were from

³⁵ Conv. With Mike Renfro, 10/31/2011.

³⁶ One of the commenters was recently interviewed by KSRA, a radio station out of Petersburg, and discussed with the interviewer (who resides outside City limits) how "five or six" families living by the Stikine River in Wrangell had lost their homes to municipal tax foreclosure. This is flatly untrue. Per Jeff Jabusch, the Finance Director for the City and Borough of Wrangell, not a single parcel located within the expanded Wrangell boundaries has been deeded to the Borough via municipal foreclosure.

Frederick Point, and in the last two years, none from Frederick Point have been filed. Interestingly enough, no one from Fredrick Point has filed any opposition to borough formation.

The City is moving too fast in forming a borough.

The Alaska Constitution promotes borough formation, and the state's efforts in this regard began with the Borough Act of 1961, and the Mandatory Borough Act of 1963. Yet, fifty years later, some areas of Alaska remain unincorporated, with no local government. Petersburg is the last community of over 1500 residents in Southeast Alaska to seek inclusion in an organized borough, after a number of smaller communities (Yakutat, Haines, Skagway and Wrangell) did so. The overall time period in which borough formation has been discussed in Petersburg has in fact exceeded the time spent in those other borough incorporations.

In summary, the Petersburg Borough meets the statutory and regulatory requirements set forth in A.S. 29.05.031 and 3 AAC 110.045-.065. The population of the area is both interrelated and integrated, the boundaries of the proposed borough conform to natural geography, the economy of the area is sufficient to provide municipal services to the region, and the communications and transportation facilities are adequate to develop an integrated borough. While many of the commenters suggest that they will not be able to "be heard", their comments, input and contributions demonstrate that they are fully capable of contributing to a participatory democracy.

II. Reply to Opposition of City and Borough of Juneau

The following comments are in reply to the "Responsive Brief" filed by the City and Borough of Juneau ("CBJ"). The CBJ contests inclusion in the Petersburg Borough of the area extending from the CBJ's existing southern boundary, north of Holkham Bay, south along the eastern side of Stephens Passage to Cape Fanshaw, including all lands eastward to the Canadian border. CBJ has now filed a petition to annex the same territory to its existing borough.³⁷

³⁷ The petitioners herein reserve their right to file a brief opposing the CBJ annexation petition, at the appropriate time. Because of the limited time now available for petitioners to reply to CBJ's 8-page opposition and 62-page attachment thereto, petitioners anticipate filing additional comments in opposition to the CBJ annexation petition.

A. Introduction and Overview

CBJ lacked sufficient interest in the contested area to previously seek annexation thereof, and pointedly declined to do so, until the Petersburg Borough incorporation petition was filed. Nearly all of this area is closer to Petersburg than to Juneau.³⁸

Petersburg has stronger economic ties than Juneau with the contested area. This is a valuable commercial fisheries harvest area of several species of salmon, herring, groundfish, crab and shrimp, in which the catches by Petersburg-based harvesters far outweigh those by Juneau residents, as demonstrated by State CFEC (Commercial Fisheries Entry Commission) statistics. The State's data analysis also demonstrates that far more of the commercially harvested seafood goes to Petersburg fisheries plants for processing than goes to Juneau plants, resulting in substantial Petersburg value-adding and local employment. Moreover, revenues received by Petersburg fisherman for fish caught in the contested area create a higher local economic "multiplier" effect, because they are more likely to re-spend this revenue locally, in Petersburg, than are nonresident owners of tour boats that are based in or only do stopovers in Juneau.

Juneau's tourist business connections with the contested area are demonstrably exaggerated in the CBJ brief, and most of that tourist activity is oriented towards Tracy Arm, (much of which is already within the CBJ boundaries) and, to a lesser extent, Endicott Arm. When Juneau's tourism connection is accurately portrayed, its economic connection with the contested area, excluding Tracy Arm, is much smaller than Petersburg's. Moreover, the contested area is far more significant to the Petersburg economy, than to the economy of Juneau, a city ten times larger with far less dependence on this area.

Petersburg fishermen have historically dominated commercial fishing in the contested area since the early 20th century, and this connection continues. Juneau's historic commercial connections, by contrast, have only been with small mining operations which have long since been abandoned, with no current activities. Past fox farming and logging enterprises have had more connection with Petersburg than with Juneau.

The other types of governmental administrative boundaries identified by the CBJ are based upon standards and considerations separate and distinct from the constitutional, statutory and regulatory standards for borough boundaries. As a result, they correspond poorly with existing borough boundaries in Alaska and do not supply a template for boundaries of a Petersburg Borough or the CBJ.

³⁸ Petersburg and Juneau are equidistant from Dry Bay, a small inlet north of Windham Bay. The great majority of the contested area lies south of this, closer to Petersburg.

B. CBJ Did Not Initiate Inclusion of this Area in a Borough, But Has Instead Reacted to Petersburg's Initiative.

As noted by the Alaska Supreme Court, the Alaska Constitution favors organization of boroughs and encourages their creation.³⁹ The Local Boundary Commission's effort, in 1991⁴⁰, to identify "model" borough boundaries was in part to encourage annexation and incorporation of more areas of the unorganized borough into organized boroughs. That process was much maligned and recently resulted in a substantial watering down of the regulatory effect of an identified "model" borough boundary. However, the model borough boundary for the City and Borough of Juneau identified by the LBC in 1991 is relevant herein because the CBJ pointedly declined to annex the territory southward from its existing boundary to the middle of Hobart Bay, identified by the LBC as a model southern boundary for the borough. Moreover, in 2005-2006, the CBJ appointed an Annexation Study Commission to study potential annexation down to the model borough boundaries, but the Commission decided against filing such a petition because the action was "not now necessary or warranted."⁴¹

Thereafter, while the Petersburg Borough petitioners first began circulating a petition to incorporate an area extending north to Holkham Bay in 2007, CBJ continued to sit on its hands. Not until late 2011, after the Petersburg petitioners had circulated a second petition, gained the requisite signatures, and filed their petition to incorporate the Petersburg Borough, did CBJ generate sufficient ardor for the subject area to seek an annexation which was not previously "warranted".

The Petersburg petitioners seek to include this area because of its importance to the Petersburg economy, and not just because someone else wants the area, as appears to be CBJ's motivation. Given Petersburg's ties to the area, the Petersburg petitioners had a legitimate concern that their effort to form a borough falling short of the southern CBJ boundary would leave a glaring gap, a virtual "enclave" of the unorganized borough in eastern Southeast Alaska, where all the surrounding area would be in organized boroughs.

The Petersburg petitioners undertook the responsibility and initiative encouraged by the Alaska Constitution, to extend organized municipal government to this region. CBJ was content to leave the area within the unorganized borough, until Petersburg sought to include it. This backdrop, by actions rather than words, illustrates the relative interests

³⁹ Mobil Oil Corporation v. Local Boundary Commission, 518 P.2d 92, 99, 101 (Alaska 1974).

⁴⁰ See Model Borough Boundaries, (Rev'd 1997), Local Boundary Commission.

⁴¹ CBJ Annexation Study Commission, Report to the Mayor and Assembly, dated January 10, 2007.

of the two petitions now seeking inclusion of the east side of southern Stephens Passage.

C. Boundaries Used by Other Governmental Agencies are not Instructive for Determining Borough Boundaries.

The various other state and federal district boundaries cited by CBJ are based upon political or administrative considerations entirely distinct from the standards for annexation or for incorporation of an Alaskan borough, which are prescribed by Article X of the Alaska Constitution, A.S. 29.05.031, 3 A.A.C. 110.045-.065 (particularly Section 110.060) and 3 A.A.C. 110.160-.195.⁴²

Because the administrative districts identified by other governments or agencies are based upon different standards, it is not surprising that these districts bear little relationship to existing borough boundaries in Southeast Alaska or statewide. **Election (voting) districts** are a very poor basis for borough boundaries; otherwise such spectacularly gerrymandered districts as the infamous "Iceworm District"⁴³, which snaked through islands from the southern end of Southeast Alaska all the way up to Yakutat, would merit a corresponding borough. Political redistricting occurs every ten years, subject to Alaska state political interests and federal voting rights requirements. The resulting election districts do not look like boroughs. Petersburg was formerly combined with all of Kupreanof, Kuiu Islands and part of Baranof Island. With the most recent redistricting, Petersburg will be combined in District 32-P with downtown Juneau.⁴⁴ If state voting districts were truly a basis for borough boundaries, it should be noted that prior to the recent change, the southern boundary of the Juneau voting district since 1984 coincided with the existing southern boundary of CBJ—at Point Coke, on the northern side Holkham Bay.⁴⁵

Federal census areas are similarly of no assistance in the current dispute. The Juneau Census Area extends south to the existing south CBJ boundaries, north of Holkham Bay, and the Wrangell-Petersburg Census District extends northward to Cape Fanshaw.⁴⁶ The area in between, the area now contested between CBJ and

⁴² 3 A.A.C. 110.060(b) does state that the Commission "may consider" federal census area boundaries, but this is neither a hard standard nor even a rebuttable presumption under the regulation.

⁴³ See 1984 District 2, on Reapportionment Map, Attachment 4 hereto.

⁴⁴ See Attachment 5, Proclamation House Districts.

⁴⁵ See Attachment 4.

⁴⁶ See Attachment 6, census maps.

Petersburg, is part of the Hoonah-Angoon Census District.⁴⁷ As is shown by a full census map of Southeast Alaska (rather than that shown at p. 12 of the CBJ brief), federal census areas have not been a template for boroughs. The contested area is part of the Hoonah-Angoon Census Area, along with all of Admiralty Island, the north half of Chichagof Island and the mainland north of Icy Strait, extending up the open Gulf Coast to Cape Fairweather. In the Wrangell-Petersburg Census Area, Petersburg and Wrangell are combined with all of Kupreanof and Kuiu Islands. Neither of these census areas would make a sensible borough.⁴⁸

ADF&G Game Management Units (“GMUs”) produce similar results. Petersburg is in a vast GMU 3, similar to that of the Petersburg Census District described above.⁴⁹ GMU 1C, touted by CBJ as a logical identifier of borough boundaries, extends west to include Gustavus, Glacier Bay, and the Gulf Coast north to Cape Fairweather.⁵⁰ Similarly GMU 4 combines Sitka (Baranof Island) with all of Admiralty and Chichagof Islands, far beyond the City and Borough of Sitka.⁵¹

U.S. Forest Service Ranger Districts, organized upon the basis of entirely different administrative concerns, include a Petersburg Ranger District which combines Petersburg with all of Kupreanof and Kuiu Islands.⁵² The Juneau Ranger District extends northward to Haines and Skagway, and west to part of Admiralty Island and part of the mainland west of Lynn Canal. These boundaries make no sense as borough boundaries, and do not correspond to the existing borough boundaries.

State land recording districts similarly overlap borough boundaries, throughout Alaska.⁵³ In Southeast Alaska, the Petersburg Recording District extends into and includes the east half of Baranof Island, in the City and Borough of Sitka, and all of Kupreanof and Kuiu Islands. The Juneau Recording District includes most of Admiralty Island and the entire northwest part of Southeast Alaska extending along the Gulf Coast beyond Yakutat. The Sitka Recording District includes Hoonah, Pelican, Elfin Cove and Tenakee Springs, all outside the City and Borough of Sitka.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ See Attachment 7, GMU maps.

⁵⁰ Id.

⁵¹ Id.

⁵² See Attachment 8, Tongass Ranger Districts Map.

⁵³ See Attachment 9, Alaska Recording District Map.

No one would seriously argue that any of the foregoing districts would make good boroughs or would comply with the legal standards for borough formation. The final basis urged by CBJ is the **U.S. Customs** breakdown of all of Southeast Alaska into its two customs ports at Juneau and Wrangell. Again, this has no bearing upon borough standards or borough boundaries.

Two other boundaries do have some bearing upon the arguments advanced by CBJ. First, as pointed out in the Petersburg petition brief, both the Federal Board of Subsistence and the Alaska Boards of Fish and Game have designated a "Juneau Non-Subsistence Area" corresponding to the existing City and Borough of Juneau boundaries. ADF&G regulation specifically defines the "Juneau Non-Subsistence Area" as including "...all drainages on the mainland east of Lynn Canal and Stephens Passage from the latitude of Eldred Rock to Point Coke...", the southern boundary of the CBJ. The area south of this, including the City of Petersburg, is in a designated subsistence area. Unlike the other administrative governmental boundaries identified in the CBJ brief, the subsistence area boundary does relate to the statutory/regulatory standards for borough boundaries, including the borough standard of compatibility of urban and rural area and compatibility of economic lifestyle (3 A.A.C. 110.045). Under ADF&G regulation (5 A.A.C. 99.016(a)), a "non-subsistence area" such as the CBJ is "...an area or community where dependence upon subsistence is not a principle characteristic of the economy, culture and way of life of the area of community." This standard bears more relationship to a borough boundary inquiry than do federal homeland security areas, census districts or Forest Service Ranger Districts, and is also more relevant than state land recording districts or ever-changing voting districts.

Second, because CBJ has put emphasis on early 20th century mining activities, it is noteworthy that even the Juneau Mining District only extends south to the north shore of Tracy Arm.⁵⁴

D. Petersburg has Substantial Economic Ties to the Contested Area

The east Stephens Passage area from Cape Fanshaw north to Holkham Bay and its arms have been of high importance to Petersburg's economy, both historically and at present. Petersburg's fishermen have long dominated all commercial fisheries in this area, including salmon seining, trolling and gillnetting, herring fishing, longlining for halibut and sablefish, pot fishing for red and brown king crab, tanner crab and dungeness crab, and beam trawling and pot fishing for shrimp. The LBC has previously held that a 200-mile long stretch of Alaska Peninsula coastline should be annexed to the Kodiak Island Borough, across Shelikof Strait from Kodiak, rather than be joined with the adjacent Lake and Peninsula Borough, because the Kodiak fishing fleet fished

⁵⁴ See U.S. Department of Interior, Bureau of Mines map, Attachment 10.

this area more heavily than the Lake and Peninsula residents, such that it more directly impacted the economy of Kodiak. See Statement of Decision, Matter of Proposed Incorporation of Lake and Peninsula Borough, p. 1.

Since the filing of Petersburg's petition, updated data and analysis has become available through the Commercial Fisheries Entry Commission ("CFEC"). CBJ first commissioned a CFEC study on this, which was supplemented at the request of Petersburg because the initial request omitted certain key areas and because one productive groundfish area was within the contested Stephens Passage area but overlapped into the uncontested Frederick Sound Area. Moreover, in addition to the comparison requested by CBJ as to the poundage and dollar value of fish caught by Petersburg and Juneau fishermen, respectively, Petersburg requested a comparison (in pounds and ex-vessel value to the fishermen) in terms of the Petersburg vs. Juneau destination port where the seafood was brought for processing.

The statistics provided by CFEC⁵⁵ are in relation to ADF&G statistical areas 110-31, 110-32, 110-33, 111-20 and 111-21, from what is interestingly referred to as the "Petersburg Management Area"; see map at Attachment 11, exhibit 3. The data also comes from separate statistical areas used by ADF&G for groundfish (halibut and sablefish) landings. See statistical area map at Chart 5, Attachment 12.

One constraint of the statistical analysis is that ADF&G and CFEC are bound by regulatory confidentiality against releasing site-specific or species-specific data where an insufficient number of competitors (either fishers or processors) exist. In order to obtain meaningful data, it was therefore necessary for CFEC to combine poundage and dollar values from all species, in which case the total dollar values are obviously most significant. The results of CFEC's analyses are contained in Tables 1-4 in Attachment 13. For purposes of discussion, Petersburg will focus only on the results for the most recent year, 2010.

Table 1 covers all statistical areas (for all types of fisheries) which are entirely within the contested area. Table 2 covers three statistical areas which partially extend beyond the contested area: (1) groundfish area 335732, most of which is in the existing City and Borough of Juneau north of Holkham Bay, but some of which is in the contested area; (2) area 110-31 (southern Stephens Passage, nearly all of which is in the contested area but a small portion of which extends south of Cape Fanshaw) and (3) groundfish area 335701, southern Stephens Passage, about half of which extends south of Cape Fanshaw, outside the contested area.⁵⁶ Adding Table 1 and Table 2, to include the

⁵⁵ The statistical analyses were performed by Kurt Iverson, CFEC; (907) 790-6947.

⁵⁶ Most of the halibut harvested in area 335701, come from north of Cape Fanshaw, in the contested area, with substantially less coming from the areas south and east of

three statistical areas which partially “overlap” into non-contested areas, the following comparisons emerge.

In terms of ex-vessel value⁵⁷, **based upon the residence of the fisherman**, the total value of all species caught by Petersburg fishermen was **\$3,227,079** as compared with Juneau fishermen revenues of \$238,591. Excluding “other” fishermen and making a comparison only between Petersburg and Juneau, Petersburg fishermen earned revenues representing **93.1%** of the value, while Juneau’s fishermen derived only 6.9% of the value from these areas.

Tables 3 and 4 concern the **location of processors** who purchased fish from the subject statistical areas. Table 3 shows “location of processor” data for fish caught in statistical areas wholly within the contested area; Table 4 shows this data for the three “overlap” statistical areas described above (335732, 335701 and 110-31.) Adding Table 3 and Table 4 results in the following comparison:

The ex-vessel value of fish sold to Petersburg processors totaled **\$3,661,810**; the ex-vessel value of the fish sold to Juneau processors was \$454,240. Again restricting the analysis only to Petersburg and Juneau processors, Petersburg processors purchased **88.8%** of the value of fish caught in these areas; Juneau processors purchased 11.2%.

These stark comparisons are highly relevant to the statutory-regulatory standards for borough incorporation (including A.S. 29.05.031(a)(1)) in demonstrating that the area is interrelated as to Petersburg’s “social, cultural and economic activities”. As is addressed below, fish harvested by local Petersburg fisherman and processed in Petersburg fish plants are far more connected to that community than are tourist adventure businesses owned and operated by companies outside of Juneau, conducting tours primarily focused upon Tracy Arm, much of which is already in the CBJ boundaries.

It is small wonder that CBJ’s 62-page JEDC report spends only two short paragraphs (p. 40) discussing “Commercial Fishing”, the single most important locally-based economy in the region.

JEDC’s two paragraphs advance *non sequiturs*. First, it asserts that the economic benefit of fishing is not where seafood is harvested, but where it is landed, and that taxes realized from these catches will not be affected by a borough boundary change.

Cape Fanshaw, outside the contested area. Conversation with fisherman Joe Short, 11/10/2011; (907) 518-0467.

⁵⁷ Ex-vessel value means the amount paid to the fisherman by a fish buyer or processor, whether the fisherman sells to a tender on the grounds or directly to a processor in a port.

Petersburg asserts that the economic benefit, from the contested area where the fish are harvested, occurs to a local community *both* when fishermen from that community *harvest* the seafood and sell it (regardless of where they sell it) *and* when the seafood is *processed* in the local community. Petersburg fishermen bring home to their community the wealth gained from selling the fish harvested in the contested area. These fishermen, who spend their incomes locally, include not only the owners of the fishing vessels and permits, but also the 5-person crews on approximately 60 Petersburg seine boats who fish the contested area, as well as the crews on longliners, crabbers and gillnetters.

Additional wealth is generated locally when local fish processing results in local value-adding to the raw fish. This generally increases the market value of the raw fish by an average of 25%, such that **the 2010 value (\$3,661,810, per CFEC) of fish harvested in the contested area and then processed by Petersburg plants is worth over \$4.5 million**, after processing.⁵⁸ Both fish harvesting and processing constitute what regional economists call a “base economy”, from which further local economic benefits are generated when the fishermen, fish processors and their employees spend much of their revenues locally, thus generating a multiplier effect where one dollar in base economy revenue generates substantial additional dollars when it is re-spent on local businesses, municipal utilities and municipal user fees. Unlike the largely absentee-owned Juneau tourism business, Petersburg fishermen are not companies or corporations located in Sitka, Seattle or elsewhere. Local fishermen’s revenues are re-circulated locally.

Petersburg’s five fish plants⁵⁹, all of which process fish from the contested area, are major sources of local employment⁶⁰, of payment for municipal electrical and water utilities, and as purchasers of local supplies. These payments go into the local Petersburg economy, and are then re-spent locally, over and over.

JEDC’s point appears to be that the fisheries business tax charged by the State to processors under A.S. 43.75.015 will be 50% shared with the City of Petersburg, under A.S. 43.75.130(a), even if the contested area is included in the CBJ, because the tax is shared with the municipality where the fish are processed. This is a mostly true

⁵⁸ Conversation with Dave Ohmer, 11/9/2011; (907) 772-333.

⁵⁹ Icicle Seafoods, Ocean Beauty, Trident Seafoods, Tonka Seafoods and Coastal Cold Storage.

⁶⁰ Petersburg’s fishing plants employ 750 to 1000 persons annually. Not all are year-round Petersburg residents, but seasonal workers also spend much of their earnings locally. Conversation with Dave Ohmer, 11/11/2011; (907)772-3333.

statement of fact⁶¹, but it only serves to underscore Petersburg's connection with the contested area. Shared fisheries business tax revenues are a major component of the City of Petersburg's revenues, totaling \$665,000 for 2010. \$400,000 of this goes to the municipal general fund, with the balance funding the boat harbors. Ordinarily, the shared fish tax funds a full 25% of Petersburg's harbor maintenance/operation costs.

East Stephens Passage is a major economic breadbasket for Petersburg. The upland activities in this area affect salmon streams, and maritime fishery regulatory decisions in the area are of great importance, such that inclusion of the area within Petersburg Borough boundaries will give the local municipality a greater voice in such matters. The JEDC study concedes that an important Petersburg tax base is ultimately derived from commercial fish harvest in the contested area.

JEDC's other paragraph at p. 40 notes that Petersburg residents have approximately 25 times as many fishing permits, per capita, as Juneau residents, and assert that the Petersburg fleet's fishing grounds cannot be the "sole criteria" for establishing "ownership" in Southeast Alaska. Borough incorporation does not amount to ownership. In any case, this area is truly a "local" Petersburg fishery ground. The contested area is relatively close to Petersburg, commensurate with distances in other boroughs.⁶² While the Petersburg fishing fleet's activities extend throughout Southeast Alaska and westward, few, if any other fishing grounds feature such a predominance of Petersburg fishermen. For example, Petersburg boats are just part of the mix of boats and fishermen hailing from other Alaska and Puget Sound ports in other major Southeast fishery areas such as Chatham Strait, west Prince of Wales Island, or the closer-to-Juneau gillnet areas of Taku, Snettisham or Lynn Canal.

In contrast, the southern end of Stephens Passage, in the contested area, has long been a predominantly Petersburg fishing area. Salmon purse seining, the largest volume salmon producing activity, has been traditionally dominated by Petersburg boats from Port Houghton north to Point League, north of Windham Bay. A salmon gillnetting district extends north from Point League slightly past Point Coke; a majority of these

⁶¹ However, in the case of a floating processor buying fish in the contested area, or a catcher-processor or direct marketer operating in this area, the 50% sharing of the state's fisheries business tax would be 50% shared with whichever Borough the contested area is within. In this case, CBJ would keep the tax benefit from a Petersburg-dominated fishery.

⁶² The northern end of the proposed borough is approximately 70 miles from the community of Petersburg, which is less than the distance from the borough seats of government to the furthest reaches of the Haines Borough, the City and Borough of Yakutat, the Kenai Peninsula Borough, Lake and Peninsula Borough, and Aleutians East Borough.

fishermen are also from Petersburg.⁶³ Petersburg processors also deploy numerous salmon tenders in the contested area to pack both seine and gillnet salmon back to Petersburg fish plants. Red and brown king crab and tanner crab fishing occurs through the contested area, into Holkham Bay, Endicott Arm and Tracy Arm, and is nearly all conducted by the Petersburg fishing fleet.⁶⁴ A Petersburg-based herring gillnet fishery occurs in Hobart Bay, and northward up the shore to Windham Bay. Petersburg boats dominate longlining for halibut and sablefish in the entire area from Cape Fanshaw to Holkham Bay. Other than some salmon gillnetters in the Holkham Bay area, it is unusual to see a Juneau-based boat commercially fishing in the entire area from Cape Fanshaw to Holkham Bay.⁶⁵

The hatcheries reviewed by JEDC at pp. 39-40 of its report play only a small role in the contested area. JEDC supplies no evidence that the DIPAC hatchery located in Juneau accounts for any significant volume of salmon harvested in the contested area. DIPAC's Snettisham Hatchery is much nearer to, but still outside of the contested area. The Snettisham Hatchery produces only sockeye (red) salmon, not the pink or chum salmon which are the high volume salmon harvested by the seine fishery from Port Houghton to Point League. The much smaller volume Holkham Bay gillnet fishery in the contested area harvests sockeye and other salmon species, but even the sockeye salmon taken in this area are partially from wild stock streams, not hatcheries.

While commercial fishing connections with an area may not be the end-all in resolving this territorial issue, it is of great significance where the only other borough seeking inclusion of the area does so primarily on the basis of a single industry, tourism, which is lesser in local economic value, is of less importance to the local Juneau economy, and which is largely confined to the extreme northern end of the contested area.

E. Juneau has Greater Tourism Connections than Petersburg with the Contested Area, but this is Primarily with Tracy Arm.

With the exception of prospective future development by Goldbelt, Inc., which is addressed below, the epicenter of Juneau-connected tourism activity in the contested area is Tracy Arm, a spectacular, cliff-lined fjord featuring two calving tidewater glaciers, Sawyer and South Sawyer. The scenic value of this area rivals that of Glacier Bay and

⁶³ Conversation with William Bergmann, retired ADF&G biologist, 11/10/2011; (907) 772-3571.

⁶⁴ Conversation with Mike Nilson, 11/14/2011; (907) 772-3782. Petersburg crabbers store their pots ashore near the abandoned village of Sumdum, on the south shore of Endicott Arm, pursuant to permits issued by the Forest Service.

⁶⁵ Conversation with Dennis Sperl, commercial shrimp and halibut fisherman who regularly fishes this area, 11/8/2011; (907) 772-4741.

is the magnet for nearly all Juneau-based tours to this area, with a lesser level of such traffic by one out-of-state operator into Endicott Arm. Some of Tracy Arm is already in the CBJ boundaries; the head of the fjord is in the contested area. CBJ's current straight-line southern boundary does not appear to "conform generally to natural geography" as required by A.S 29.05.031(a)(2), and it would be reasonable for the LBC to redraw this boundary across the mouth of Tracy Arm, including all of Tracy Arm in the CBJ while leaving the areas southward, including Holkham Bay and Endicott Arm, in the Petersburg Borough.⁶⁶

Petersburg also has tourism connections with the contested area, more so with areas south of Tracy Arm. These are discussed below. First, Juneau's asserted economic tourism connections with the area are scrutinized.

The JEDC report relies first upon the visitation of cruise ships to Tracy Arm or its outskirts. The fact that these cruise ships also visit Juneau on their Southeast Alaska itineraries does not somehow warrant inclusion of the contested area in the City and Borough of Juneau. These are out-of-state, ordinarily foreign-flagged ships that feature stopovers in Ketchikan and Sitka as well as Juneau. They are not Juneau based, and their itineraries bear no relevance to the criteria for borough incorporation or borough boundaries.

Juneau's other tourism connections with the contested area are based upon "small tour operators" summarized at page 51 of the JEDC report. Petersburg has contacted most of these operators, and found that JEDC's "2011 Tourism Activity" table is in many cases misleading, resulting in an overstatement of Juneau's connection with the area relative to that of Petersburg. As described below, the JEDC table includes overstatements of estimated revenues that result from over-attribution of revenues to the subject area on longer tours that cover other areas of Southeast Alaska. The table also includes attribution of a tour's revenues to Juneau when Petersburg's connections with the tour are as strong or stronger than Juneau's. Finally, the great majority of Juneau-oriented tourist business is with Tracy Arm, to a lesser extent with Endicott Arm, and not with other parts of the contested area south of these.

Attachment 14 hereto is a chart of Petersburg's contacts with representatives of the "Small Operators" listed by JEDC at p. 51 of its report. For the reasons described in the Attachment, Lindblad Expeditions (estimated revenue of \$403,156), Fantasy Cruises (estimated revenue of \$1,400,000), Alaskan Legend Yacht Charters (operates 100% out of Petersburg, estimated revenue of \$245,000), Ocean Point Alaska (estimated revenue of \$214,500; actual is \$110,000) and Glacier Guides, Inc. (estimated revenue of \$250,000) **all feature tours or guided hunting trips wherein Petersburg's connections are at least equal to and some cases much greater than Juneau's.**

⁶⁶ A Petersburg City Council delegation approached CBJ representatives with this proposal in October, 2011, but received no indication that this boundary might be acceptable.

Another listed tour company, Coastal Island Charters, is based in Wrangell, with trips originating in Wrangell or Sitka, with no stops in Juneau or other connections with Juneau.

In some of the other tours listed by JEDC as having connections with Juneau, the **revenues attributable to the contested area are substantially overstated**. For example, a fair estimate of Adventure Bound's Juneau to the contested area revenues is \$390,000 per year, not \$931,500. Alaska Quest Charters features annual revenues of approximately \$40,000 per year attributable to trips into the contested area from Juneau, rather than \$192,500. Parker Guide Service is a Sitka-based hunting guide operation whose hunts are primarily concentrated in other parts of Southeast Alaska. Its mountain goat hunting trips in the contested area originate on its vessel, anchored in the area, with these clients and guests (approximately 16 total per year, rather than 35, as shown by JEDC) flying through Juneau to the vessel.

Two tour companies, Allen Marine Tours and Inner Sea Discoveries, account for nearly half of the total tourism revenues claimed by JEDC as connecting Juneau with the contested area. Neither company is Juneau-based. Allen Marine Tours is a Sitka company which runs various tours from Sitka, Ketchikan and Juneau. Inner Sea Discoveries is based in Seattle and conducts tours throughout Southeast Alaska, as well as Mexico and other locations. While both Allen Marine Tours and Inner Sea Discoveries have tours connecting Juneau with the subject area, **nearly all of these connections are with tours into Tracy Arm, or in some cases into Endicott Arm, both at the extreme north end of the contested area.**

Allen Marine Tours has three day-trip tours into Tracy Arm. One is a 2^{1/2} hour trip, in which tourists are transshipped off cruise ships drifting in Holkham Bay, roundtrip to the glaciers at the head of Tracy Arm. A 5-hour trip takes transshipped cruise ship passengers from Holkham Bay into Tracy Arm, and then to Juneau (where they rejoin the cruise ship) or vice versa. A 7-hour trip brings passengers from Juneau to Tracy Arm roundtrip. Occasionally, due to floating ice packs in Tracy Arm, passengers will instead be brought south, to Endicott Arm. Other than this, Allen Marine's Tours have no connection with the contested area south of Tracy Arm, with the exception of 2011 startup of a tour which brought passengers from Juneau to Hobart Bay on a weekly basis, with traffic volumes currently unknown.

Petersburg petitioners have been unable to verify with Allen Marine Tours its total volume of visitors and estimated revenues depicted in JEDC's 2011 Tourism Activity table.⁶⁷

⁶⁷ As shown in Attachment 14, Allen Marine's legal counsel declined to release this proprietary information or to confirm JEDC's data, and denied that Allen Marine furnished such information to JEDC.

Inner Sea Discoveries (a.k.a. American Safari Cruises) operates 7 different cruises, normally 7 days in duration, taking passengers through various areas of Southeast Alaska. Only 1 day is spent in either Tracy Arm or Endicott Arm, and not in the contested area south of there. Only 2 of these tours are roundtrip from Juneau, though other trips originate, end or pass through Juneau. However, its trips also originate or pass through other Southeast Alaska cities, including Ketchikan, Sitka and Wrangell. All of these ports, including Juneau, are merely stopovers on a many-faceted tour through Southeast Alaska, and hardly represent a Juneau-supported tourism activity in the contested area. It does not appear that the company's employees are Juneau residents.

In summary, the "2011 Tourism Activity" chart prepared by JEDC substantially overstates Juneau's connection or support for tours/guided hunts into the contested area; and it includes a number of operators whose connections are greater with Petersburg than with Juneau. Even after the chart is corrected for these errors, JEDC's estimated annual revenues are centered on trips into Tracy Arm, rather than the bulk of the contested area south of Tracy Arm to Cape Fanshaw.

Petersburg has significant tourism/sport fishing charter and guided hunts connections with the contested area, though these are small in comparison with Petersburg's commercial fisheries connections. As discussed above, Alaskan Legend Yacht Charters, Ocean Point Alaska and Glacier Guides, Inc. are supported from Petersburg far more than from Juneau. The Lindblad Expeditions and Fantasy Cruises tours into the contested area also have as strong or a stronger connection with Petersburg than with Juneau.

A growing number of additional Petersburg-based tour boats or day charters transport passengers into the contested area roundtrip from Petersburg, throughout the summer seasons. Alaska Sea Adventures, a Petersburg company, operates the 84-foot M/V NORTHERN SONG, featuring 8-day trips during which most of the cruise time is spent in the contested area, including Port Houghton, Hobart Bay, Windham Bay, Holkham Bay and Endicott Arm, but not Tracy Arm. Up to 8 passengers are brought into the area for whale watching,⁶⁸ sightseeing, photography, sea kayaking, sport fishing, bird watching and scientific research. Passengers frequently spend time ashore hiking or river fly-fishing. Annually, the company brings about 80 passengers into the contested area, and annual revenues associated with its business in the contested area are estimated to exceed \$200,000.⁶⁹

⁶⁸ Whale watching is a major tour attraction in southern Stephens Passage, where humpback whales regularly congregate and feed. Juneau-based whale watching tours do not come to the contested area, but rather travel to other whale watching areas closer to Juneau.

⁶⁹ Conversation with Dennis Rogers, 11/15/2011; (907) 518-0505.

Alaska Passages Adventure Cruises, another Petersburg business, utilizes the 65-foot M/V HERON to transport 6 passengers per trip into the contested area, on trips ranging from 5 days to 2 weeks in duration. Passengers are brought into the bays from the Cape Fanshaw area to the other bays northward in the contested area, including Port Houghton north to Endicott Arm, but not to Tracy Arm. Activities include whale watching, sea kayaking and shore activities, including hiking and fly-fishing. 75% of the company's tours go into the contested area. Alaska Passages also operates a smaller, 6-passenger vessel which takes day trips to the contested area from Petersburg.⁷⁰

Whale Song Cruises brings 6 passengers on 40 to 45 day trips per year into the contested area, primarily for whale watching, with the majority of its trips going as far north as Hobart Bay, and some of its trips extending further north to Windham Bay.

Magic Man Charters operates a 6-passenger vessel which brings passengers on day trips from Petersburg to the contested area to sport fish and whale watch.

Kaleidoscope Cruises brings up to 6 passengers from Petersburg to the contested area, as far north as Hobart Bay, on overnight trips including scientific charters and tourism whale watches.

The M/V JUNO, another Petersburg-based charter boat, conducts up to half of its business in the contested area, bringing 6-passenger day trips to the area for whale watching and dropping off and picking up sea kayaking parties who camp there.

Tongass Kayak operates a Petersburg-based kayak rental and kayak drop off-pickup business, bringing parties into the contested area as far north as Hobart Bay, and its 6-passenger vessel also conducts whale watching day trips in this area.

F. Petersburg has Greater Transportation and Communications Links with the Contested Area.

There are currently no scheduled ferry or air carrier services to the contested area.⁷¹

The mail boat M/V YAKOBI, which formerly delivered and picked up mail at remote outposts in this area, ceased these operations in 1963. The book cited by JEDC⁷²

⁷⁰ Conversation with Scott Hursey, 11/4/2011; (907) 772-3967.

⁷¹ Alaska Seaplane Services, based in Juneau, does not offer scheduled flights to the contested area, despite the implication to the contrary at p. 54 of the JEDC Research paper.

⁷² In the Wake of an Alaskan Mail Boat (Dennis Sperl, 2001). Mr. Sperl is a resident Petersburg fisherman.

describes a 660-mile roundtrip mail route (p. 291) of which the transit from Juneau through the entire contested area would represent only 25% of the overall route. After travelling through the contested area, the mail boat would go to Petersburg, before proceeding back out Frederick Sound to southern Chatham Strait outposts, to then return through the contested area of Stephens Passage. Although more mail to the outposts in the contested area came from Juneau than from Petersburg, most of the freight was delivered by the mail boat from Petersburg to these outposts.⁷³ In those days, freight was delivered to Southeast Alaska by Alaska Steam, whose northbound steamers docked in Petersburg before going to Juneau. Fox farms and other outposts in the contested area would therefore have their freight picked up in Petersburg by the mail boat, and delivered to them from Petersburg.⁷⁴ The mail boat also made substantial freight deliveries from the contested area outposts to Petersburg, rather than Juneau. The M/V YAKOBI delivered totes of fish and loads of fox farm furs to Petersburg, to be sold there.⁷⁵ Overall, the mail boat supplied a stronger link between the contested area and Petersburg than it did with Juneau, because the outposts in the area were more oriented toward Petersburg.

Except for the private commercial fishing boats, charter boats and private cruisers which transit to the contested area from Petersburg and Juneau, the primary transportation link at the present time is by commercial float airplane. The JEDC report, at page 54, understates Petersburg's charter flight connections to the contested area. Three Petersburg charter services conduct over 175 roundtrips per year. Pacific Wing had 34 flights in 2010 to the Hobart Bay/Port Houghton area carrying passengers or cargo, and a number of additional fish spotting or flightseeing flights to the area.⁷⁶ Nordic Air conducts over 100 trips to the contested area per year, mostly on behalf of Icicle Seafoods, a Petersburg processor who charters this air service to fly equipment, supplies and personnel to Petersburg fishing boats (seine boats and gillnetters) fishing the area, and to perform fish spotting⁷⁷ services to the boats selling to this processor.⁷⁸ The Petersburg office of the Alaska Department of Fish & Game charters another local

⁷³ Conversation with Dennis Sperl, 11/9/2011; (907) 772-4741.

⁷⁴ Conversation with Dennis Sperl, Id.

⁷⁵ Conversation with Dennis Sperl, Id.

⁷⁶ Conversation with Rod Judy on 11/14/2011; (907) 772-3249.

⁷⁷ Fish spotting involves the chartered airplane circling the fishing grounds to identify the location of salmon or herring schools, communicating these in real time to the boats associated with the charter flight services. This service can be vital to efficient harvest of these fish.

⁷⁸ Conversation with Doug Riemer of 11/8/2011; (907) 772-3535.

air service to transport its personnel to the contested area on an average of 40 times per year, to perform assessment and regulatory functions.⁷⁹

These total over annual 175 charter flights originating in Petersburg into the contested area, as compared with 93 originating in Juneau.⁸⁰

Telephone and computer communications links with the contested area are lacking from both Juneau and Petersburg. However, good broadcast radio reception from Petersburg's public radio station, KFSK, is received throughout the contested area, all the way to its northern boundary at Holkham Bay.⁸¹ Juneau radio broadcasts are not received in the contested area. If the contested area were annexed to the CBJ, that borough would have to arrange public information broadcasts through the Petersburg station, in order to provide public notice to fishermen or residents there.

G. Goldbelt, Inc.

In 2007, Goldbelt Inc, the ANCSA Village Corporation for Juneau, expressed its preference that its lands in Hobart Bay be part of the proposed Petersburg Borough and not part of the CBJ.⁸² Goldbelt then stated that this preference was based upon

...geography, historical ties, the abilities of the proposed Petersburg Borough to provide services, and past support by the City of Petersburg and the support of Petersburg businesses of our past logging operations in Hobart Bay.

At this writing, Goldbelt has now taken a neutral position regarding the current Petersburg and CBJ petitions. If the arguments now advanced by CBJ for inclusion of Goldbelt's Hobart Bay lands in a CBJ annexation were so compelling, Goldbelt would not have so recently favored inclusion in a Petersburg Borough instead. A little over a third (1,269) of Goldbelt's shareholders reside in Juneau, comprising approximately 4% of that city's population. Businesses, including Alaska Native regional and village corporations, frequently engage in major commercial activities outside of their home headquarters. Representatives of the Petersburg petitioners have made clear to

⁷⁹ Conversation with ADF&G biologist Kevin Clark on 11/8/2011; (907) 772-3801.

⁸⁰ JEDC report, p. 54.

⁸¹ Conversation with Tom Abbott, KFSK Station Manager, 11/8/2011; (907) 772-3808. KFSK broadcasts City Council meetings live, and also announces upcoming meetings of public bodies, including the council and school board.

⁸² See Exhibit 5 to initial Brief in support of petition for incorporation.

Goldbelt representatives that a Petersburg Borough would be fully supportive of Goldbelt's future development plans in Hobart Bay.

H. Petersburg has a Greater Recent Historical Connection with the Contested Area

CBJ's claimed historical connections with the area are primarily based upon itinerant commercial enterprises which have long since been abandoned, while Petersburg's historic commercial fishery connection with the area has been continuous and substantial since the early 20th century.

1. Alaska Native (Tlingit) Tribal Territory

The Petersburg petitioners respect the territorial claims of the Tlingit tribes in Southeast Alaska. However, CBJ has overstated the usefulness of tribal territories in connecting this area with Juneau. The Auk tribe is associated with Juneau, but its territory does not extend into the contested area.⁸³ The Taku is an "entirely separate" tribe (*Id.*, p. 37) from the Auk. The Taku were not located in Juneau, but were originally located on the Taku River and later near Bishop Point, at the mouth of Taku Inlet.⁸⁴ The Taku territory does extend southward to Holkham Bay, at the extreme northern end of the contested area, but not south of Holkham Bay. As stated by the most authoritative source on tribal territory, Goldschmidt and Haas,

...No Taku witness claims territory further south than the Holkham Bay area where the old village of Sumdum was situated. It appears, therefore, that the Kake people probably claimed the mainland coast from Cape Fanshaw north to and including Windham Bay, but that beyond this point the territory belonged to the people of Taku. The statement quoted above...indicates that the Natives of Kake continue to use this area for hunting and fishing.⁸⁵

CBJ cannot assert Taku territory as "Juneau" territory any more than Petersburg could assert the northern end of the Kake territory as grounds for a borough boundary; neither territory is instructive to the borough boundary issue herein.

⁸³ Haa Aani Our Land, Goldschmidt and Haas, 1998, at pp. 37-41.

⁸⁴ *Id.*, pp. 37, 41-44.

⁸⁵ *Id.* at p. 92. See also Chart 4 and Chart 6, in the Appendix to the Goldschmidt and Haas book, illustrating these boundaries.

Moreover, CBJ seeks to “fudge” the Taku territory southward from Holkham Bay, on the basis of an ADF&G Division of Subsistence technical paper.⁸⁶ That paper erroneously states that the area from Port Houghton to the north is also associated with valid claims by the Taku and Sumdum tribes.⁸⁷ No authority is cited for this point, and the technical paper otherwise relies heavily upon the Goldschmidt and Haas studies⁸⁸, which place the area from Port Houghton to Holkham Bay in Kake territory. The technical paper is more important for describing areas of subsistence use, not as superseding the authoritative tribal territorial studies of Goldschmidt and Haas. Regarding subsistence usage, the Technical Paper No. 164 author states that the Petersburg subsistence harvest range, both historically and in the present, overlaps the traditional areas of the Killisnoo (Angoon), Sumdum, and Taku people.⁸⁹

2. Mining

As with many other areas of Alaska, the contested area featured some small scale mining activities long since defunct, leaving at most a few rusting machinery remains. Most of the mining detailed by CBJ was abandoned in the 1920’s, with all mining abandoned by 1940. As CBJ points out, later efforts to locate “economic” mineral claims have come up empty, and none are now economically viable.

3. Fox Farming

Fox farming is another industry of the past. During its time, primarily in the first half of the 20th century, there were at least 11 fox farms in the contested area. 3 fox farms were located in the Cape Fanshaw area, 2 in the Five Finger Islands, 3 in Port Houghton, 1 on Entrance Island at the mouth of Hobart Bay, 1 on Sunset Island, later moved into Windham Bay, and 1 on Harbor Island, in Holkham Bay.⁹⁰ CBJ may be correct that the actual licensees for these enterprises were distributed equally between Juneau and Petersburg residents, but the businesses themselves were much more connected with Petersburg. The operators came into Petersburg to buy supplies and to

⁸⁶ Harvest and Use of Fish and Wildlife Resources by Residents of Petersburg, Alaska, ADF&G Technical Paper No. 164 (1988).

⁸⁷ Id., pp. 164, p.20.

⁸⁸ Id., pp. 18-20.

⁸⁹ Id. at p. 18.

⁹⁰ Conversation with Dennis Sperl, 11/9/2011; (907) 772-4741.

sell their furs, mostly to fur buyer Les Elkins.⁹¹ In fact, Petersburg was the regional center for these and other fox farms in remote Southeast Alaska, which is why the Experimental Fur Farm was established in Petersburg in 1939, operated by Jim Leekley. The Fur Farm experimented with food cereals and breeding techniques to develop better fur for the animals raised at these fox farms.⁹² The fox farming history of the contested area is tied to Petersburg, not Juneau.

4. Timber Harvest Operations

Goldbelt, Inc. contracted for extensive logging on its Hobart Bay lands in the 1970's and 80's. Petersburg suppliers, contractors and transportation services heavily supported these operations. Petersburg operators towed log rafts for the enterprise, and Reid Brothers Logging and Construction, a Petersburg firm specializing in logistical support for remote operations, brought trucks, equipment and supplies by power barge to Hobart Bay on a monthly basis throughout the timber harvest.⁹³ Groceries and other supplies were provided by the Trading Union, a Petersburg retailer.⁹⁴ A Petersburg charter flight company, Pacific Wing, made 4,000 roundtrip flights to bring equipment, supplies and personnel from Petersburg to the Hobart Bay logging operation, sometimes requiring seven flights per day during winter months.⁹⁵ Petersburg-based land surveyors were also contracted for the timber operations.⁹⁶ When a large helicopter carrying loggers crashed in Hobart bay, a Petersburg helicopter and EMTs were the first responders; see discussion below in "Emergency Response" section.

Petersburg has a history of supporting logging enterprises, and would be better equipped than Juneau to logistically support any future timber harvest in the contested area.

⁹¹ Conversation with Don Nelson, author of book "The Story of Petersburg", 11/8/2011; (858) 674-6548; conversation with Dennis Sperl, supra.

⁹² Conversation with Robin Leekley, 11/7/2011; (907) 772-3323.

⁹³ Conversation with Glenn Reid, 11/1/2011; (907) 772-4571.

⁹⁴ Conversation with Glenn Reid, Id.

⁹⁵ Conversation with Rod Judy, 11/7/2011; (907) 772-3249.

⁹⁶ Conversation with Rod Judy, Id.

5. Commercial Fishing History

Particularly during the early stages of commercial fishing operations in Southeast Alaska, the areas of Stephen Passage and its bays and inlets in the contested area were nearly all the exclusive fishing grounds of the Petersburg fleet. Longlining for halibut began there in the early 20th century, and for decades specific sub-areas within this region were regarded as exclusive territory of the particular Petersburg boats which had pioneered the fishing there.⁹⁷

Since the earliest days of commercial salmon seining, the Petersburg fleet has dominated this high volume fishery in the contested area, from Cape Fanshaw to Point League, north of Windham Bay.⁹⁸ Prior to the banning of fish traps at Statehood (1959), fish traps were operated by Petersburg-based fish processors (including PAF), with Petersburg employees, at Windham Bluffs (north of Windham Bay) and outside Hobart Bay. The fish traps were supplied by and delivered their product to Petersburg. Petersburg fishermen also pioneered and dominated the other fisheries which developed in Stephens Passage, including salmon trolling and gillnetting, red king crab in the 1960's, brown king crab and tanner crab thereafter, and Dungeness crab, shrimp and herring.⁹⁹ These fisheries were supported by Petersburg's fish processing companies, including the Petersburg Cold Storage and PAF, which later was acquired by Icicle Seafoods.

Petersburg has, since its inception in 1910, been an industrious commercial fishing town, and the southern Stephens Passage area now at issue has been a central Petersburg fishing area, upon which Petersburg's economy and lifestyles have been partially dependent. Unlike the temporary and now moribund industries cited by CBJ, Petersburg's historic commercial fishery connection with the contested area remains strong and vibrant.¹⁰⁰

⁹⁷ Conversations with Bob Dolan, 11/9/2011; (907) 518-4050 and with Dennis Sperl, 11/9/2011; (907) 772-4741.

⁹⁸ Conversation with Bill Love, 11/9/2011; (907) 772-2027.

⁹⁹ Conversation with William Bergmann, retired AFD&G biologist, 11/10/2011; (907) 772-3571.

¹⁰⁰ Attachment 15 hereto is a recent (November 2011) cover story from National Fisherman describing the Petersburg commercial fishing industry, historically and at present.

I. Emergency Response

CBJ relies upon emergency response facilities provided by federal and state agencies, not by municipal agencies. The fact that the Juneau sector of the United States Coast Guard covers all of Southeast Alaska is not instructive as to borough boundaries. The Coast Guard has a 110', fast cutter, the M/V ANACAPA and the 65' buoy tender M/V ELDERBERRY, stationed in Petersburg. Coast Guard cutters in Juneau, Petersburg and Ketchikan rotate their availability for emergency response status, covering all of Southeast Alaska.

The cutter ANACAPA is capable of reaching the north end (Holkham Bay) of the proposed Petersburg Borough within 3 hours, and regularly performs sea rescue and enforcement throughout the southern Stephens Passage area. The buoy tender ELDERBERRY provides all the maintenance services to navigational lights and markers in the contested area.

CBJ asserts that the Juneau Post of the Alaska State Troopers provide enforcement "as far south as Holkham Bay,"¹⁰¹ at the north end of the contested area. The State Trooper based in Petersburg primarily performs fish and game enforcement duties, but also other law enforcement. The Petersburg trooper performs fish and game enforcement as far north as Windham Bay.¹⁰²

Petersburg does not dispute that the Bartlett Regional Hospital in Juneau is much larger than the Petersburg General Hospital; nor is it disputed that Bartlett provides medical care, including emergency care, to residents throughout Southeast Alaska, including many who originate in Petersburg, Wrangell or Kake. This does not warrant inclusion of the Stephens Passage contested area in the CBJ any more than it would support including Petersburg, Wrangell or Kake in that borough.

One of the largest emergency events in the contested area occurred in about 1990, when a large helicopter carrying two pilots and nine loggers crashed in the woods near the Hobart Bay logging operation. The first responders to the scene were from Petersburg, when a Petersburg-based Temsco helicopter brought two Petersburg fire department EMTs to the scene, to assist the seven injured survivors.¹⁰³

¹⁰¹ JEDC Research on p. 58.

¹⁰² Conversations with Trooper Cody Litster, 11/9/2011; (907) 772-3983 and with William Bergmann, 11/10/2011; (907) 772-3571.

¹⁰³ Conversation with Doug Cronlund, 11/10/2011; (907) 772-3571.

J. Summary

CBJ's unwillingness, until now, to seek annexation of territory south of its existing south boundary above Holkham Bay should bear heavily upon its belated move to seek such annexation only after Petersburg petitioners sought to include this area within a Petersburg Borough. If, notwithstanding this backdrop, the LBC is inclined to seriously consider the merits of CBJ's petition in the context of Petersburg's prior petition, a new and revised south boundary of the CBJ may be warranted which includes all of, rather than part of Tracy Arm in the CBJ. A boundary line across the west and east points at the mouth of Tracy Arm, and then extending, either by straight line or along watershed ridgeline to the Canadian border, would "conform to natural geography" more than the existing arbitrary line. Such a boundary would also take into account the fact that Juneau's tourism activities in the contested area are focused on Tracy Arm, while this area is of relatively small commercial fishing importance to Petersburg.

In the contested area from south of Tracy Arm to Cape Fanshaw, however, Petersburg's commercial fishing ties, and its lesser tourism ties, are substantially greater than Juneau's tourism connections with this area. Unlike Juneau, Petersburg's fishing fleet and processing plant economy is substantially dependent upon this area, for personal incomes, business revenues, jobs and state fish tax revenues. The area is of relatively small importance to the economy of Juneau.

The other borough incorporation factors, including transportation and communications, and historical connections, weigh in favor of the Petersburg petition. Petersburg has sufficient connections with this area, under the statutory and regulatory standards for borough incorporation, to warrant its inclusion in the Petersburg Borough.

III. Reply to Joint Resolution by City of Kake and Organized Village of Kake

The City of Kake and the village tribal entity, Organized Village of Kake, have filed a joint resolution in opposition to the Petersburg Borough petition, dated October 11, 2011. The "Resolved" section of the resolution objects to that part of the proposed Petersburg Borough boundary "...which claims a portion of Kupreanof Island and infringes upon Kake's territory from a historical use perspective established from time immemorial", and declares "that all of Kupreanof Island be retained under the use area of Kake and included with other Kake use areas for any future borough consideration....". The primary focus of the resolution therefore appears to be Kupreanof Island, and the fact that the borough petition seeks a boundary following a ridgeline in a generally north-south direction bisecting the island.

Contrary to Kake's assertion, the eastern part of Kupreanof Island has not been recognized to be within the traditional territory of the Kake tribe. The proposed Petersburg Borough boundaries were in fact drawn in an effort to avoid Kake tribal

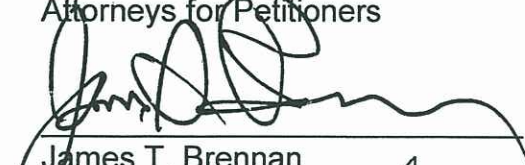
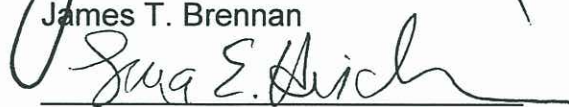
territorial claims on Kupreanof Island. Attachment 16 hereto is a portion of Chart 4, showing land belonging to tribes of the Tlingit and Haida, from the Appendix of Haa Aani Our Land, Goldschmidt and Haas, 1998. This map shows the northwestern half of Kupreanof Island within the Kake territory, and the southeastern half within the Wrangell (Stikine) area, which also includes Petersburg. A similar map exists at Chart 13 in the Goldschmidt and Haas Appendix, and reflects the "Claims of the Natives of Hydaburg, Kake, and Klawock, Alaska". See Attachment 17. In drawing the proposed Petersburg Borough boundary line, the petitioners modified the Kake tribal territory line on Kupreanof only as was necessary to follow natural geography, utilizing watersheds and ridgelines mapped by the U.S. Forest Service in the Tongass Land Management Plan. The proposed borough boundary stays out of the identified Kake tribal lands, including the taking of a sharply eastward angle near the north end of Kupreanof Island so as to exclude all of Portage Bay (which empties into Frederick Sound), because it was identified as Kake traditional territory.

The eastern side of Kupreanof Island is, in fact, much more associated more with Petersburg than Kake. The City of Kupreanof is on Kupreanof Island, directly across Wrangell Narrows from Petersburg. Duncan Canal, which jets northwesterly nearly to the middle of Kupreanof Island, is traditionally used by Petersburg residents for duck hunting, fishing and recreating, and Duncan Canal features a number of residents who interact with Petersburg, and many recreational cabins owned by Petersburg residents. There is no modern connection of Kake with the eastern side of Kupreanof Island.

The Kake joint resolution refers in a Whereas Claus to "portions of the mainland", but this is not defined, and the Resolved sections of the resolution do not expressly reference this area. The Petersburg petitioners assert that, while areas of the mainland on the east side of Stephens Passage were once used as traditional hunting and fishing grounds by Kake Natives, Petersburg's fishing and tourism industries presently now make far greater use of the area, and rely upon it for the economic health of the community.

Respectfully submitted this 15th day of November, 2011.

Hedland Brennan & Heideman
Attorneys for Petitioners


James T. Brennan

Sara E. Heideman

LOCAL BOUNDARY COMMISSION
STATE OF ALASKA

In re Petition to the Local Boundary)
Commission for Incorporation of the)
Petersburg Borough)
_____)

AFFIDAVIT OF SERVICE

I CERTIFY that I, Caitlyn Gries, am employed at the law offices of Hedland, Brennan & Heideman, and that on the 15th day of November, 2011, I caused a true and correct copy of PETITIONERS' REPLY BRIEF to be served via U.S. Mail, postage prepaid, on:

Robert Lynn
P.O. Box 231own
Petersburg, Alaska 99833

George B. Cole
P.O. Box 2107nue
Petersburg, Alaska 99833

Rod Swope, City Manager
155 South Seward Street
Juneau, Alaska 99801


Caitlyn Gries

ATTACHMENT 1

Aquatic Center



ATTACHMENT 2

G.O. Bonded Indebtedness

Section III. Part C.

Section III. Part C.							
GO Debt as of 6/30/2011							
GO Bond	Amount of GO Debt Remaining	% Reimbursed by the Dept. of Education	State Reimbursement	City's Portion	Taxpayers Portion		
2007 GO Bond - Pool	1,040,000	58.4%	607,360	432,640	\$ 432,640.00		
2007 GO Pool/Harbor refunding of 2000 GO Bonds	1,165,002	0%	-	1,165,002	\$ 194,205.83		
2005 GO Pool/Voc. Ed. Building	4,810,000	60%	2,886,000	1,924,000	\$ 1,924,000.00		
2004 GO School Bonds	2,600,000	70%	1,820,000	780,000	\$ 780,000.00		
2004 GO Elderly Housing Bonds	2,490,000	0%	-	2,490,000	\$ 1,867,500.00		
2010 GO Electric	2,800,000	0%	-	2,800,000	\$ -		
	14,905,002		5,313,360	9,591,642	5,198,346		

ATTACHMENT 3

Borough Charter



CITY OF PETERSBURG
P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4519
FAX (907) 772-3759

October 9, 2006

To: Charter Commissioners
Fr: Kathy O'Rear, City Clerk
Re: Recommended Borough Charter

Dear Commissioners:

Enclosed is the Borough Charter as forwarded to the City Council today. I apologize for not getting it out sooner, but I sorely misjudged my work load last week!!

Please note, in lieu of the substantial voter directive at the October 3, 2006 municipal election (reduce residency requirement to 30 days, failed: 257 yes, to 422 no), I changed the Charter residency requirements for the planning commission and hospital board to the one year residency. I also added the statement that the provisions of the charter applying to the assembly also apply to the hospital board and planning commission.

As I informed you earlier by email, the City's attorney believes the provisions provided by the Charter for the initial election are "good to go". I've also secured a tentative "o.k.", pending closer review, on these initial elections from the Boundary Commission. The City Council will now need to review the document and determine if any changes are necessary. I expect that the Council will want to meet with the Commission in the near future to discuss the document.

I have sent the recommended Charter to our borough consultant Barb Sheinberg, along with the Commission's transmittal letter. I believe she will make needed changes to the petition that defer from the Charter as she deems necessary with any of the substantial contradictions left to the Council's discretion.

Thank you for making this project one of the most rewarding experiences of my tenure as City Clerk of Petersburg. I am simply amazed at the respect, candor and consideration you gave to one another throughout the process. Regardless of how the City Council may look upon or accept your work, I personally think you have provided a document that will address our borough's needs well into the future.

Sincerely,


Kathy O'Rear, CMC
City Clerk

P.S. If you come across any errors while reviewing this recommended draft, please call or email me so I can make necessary changes.

October 2, 2006

Mayor Smith and City Council
City of Petersburg, Alaska

Dear Councilors:

Here is the draft charter for the Borough of Petersburg, as carefully prepared by the Charter Commission. The Commission has reviewed every section of this charter and through consensus we believe the Charter is the best product to provide guidance and direction for a new borough. The draft charter relies heavily on the existing Petersburg City Charter, Alaska statutes, and the charters of several other boroughs.

The Commission appreciates the opportunity to work with Kathy O'Rear. We developed a deep appreciation for her knowledge of the existing Charter, ordinances and processes. There were numerous times that her knowledge and her ability to facilitate helped the Commission develop a consensus. We also appreciate her willingness to give up some of her weekends, holiday, and evenings to work with us. Without her help our product would not be as timely or as thorough.

Note that this draft is at odds in several important ways with the draft Borough Petition dated August 9, 2006, which now needs to be revised:

- No service areas are defined.
- Expansion of the basic 4 mills taxed area is not automatic; an ordinance is needed.
- The Petition anticipates immediate additional revenues; ordinances are needed.

There are some significant ways in which this Charter differs from the current City Charter:

- Budget adoption is by ordinance, not by resolution.
- Budget amendment is by ordinance, not by resolution.
- The Borough mayor has a three year term.
- The imposition of sales and use taxes over a larger area is not automatic, but requires a specific ordinance.
- No service areas are created by the Charter. Each new service area requires a vote on specific ordinances.
- Borough public service announcements will be posted at the usual places, plus at Kupreanof City and at Papke's Landing.

The Commission searched for a way to assure that the present unincorporated areas of the new borough would be represented on the assembly. After discussion with the Local Boundary Commission and a review of the State statues, we could find no easy way to accomplish that goal. We decided on area wide representation. To that end, we ask you to encourage people from outside the present City of Petersburg to run for the first assembly.

The Charter Commission visualizes variable tax rates based on services received. The result would be detailed tax notices to residents showing the mill rate assigned to each service the borough is providing. This concept would also require a review of those services now being provided within the present City boundaries.

If Councilors have any questions, the members of the Charter Commission will be happy to meet with you in a work session.

We believe the Commission's job is completed and hereby forward this Charter.

Respectfully Submitted,

*Sam Bunge, Charter Commission Chairman
Tom Reinarts, Charter Commission Vice-Chair
Mona Christian, Charter Commissioner
Gerry Merrigan, Charter Commissioner
Vikki Hicks, Charter Commissioner
Bob Lynn, Charter Commissioner
Nancy Strand, Charter Commissioner
Harold Medalen, Charter Commissioner
Jenny Martens, Charter Commissioner*

Petersburg Borough Charter

***As recommended by the
Charter Commission
10-02-2006***

**** Petersburg Borough Charter ****

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**** Petersburg Borough Charter ****

PREAMBLE

We, the people of the Petersburg Borough exercising the powers of home rule by the Constitution of the State of Alaska, in order to provide for efficient and responsive government, and to preserve maximum personal freedom and self-responsibility of the people within the borough, hereby establish this Home Rule Charter.

This Charter guarantees the right of enjoyment of private property, chosen lifestyles, traditions, employment and recreational activities without unnecessarily restrictive or arbitrary laws or regulations. This Charter strives to provide for maximum public participation in borough decision making.

ARTICLE I

NAME, BOUNDARIES AND POWERS

Section 1.01 Name

The municipal corporation is known as "Petersburg Borough." Whenever it deems it in the public interest to do so, the borough may use the name, "Borough".

Section 1.02 Type and Class of Government

Petersburg Borough is a home rule borough and operates under an "assembly/manager" form of government.

Section 1.03 Boundaries and Borough Seat

A. The boundaries of the borough shall be as depicted on the map as approved by the Local Boundary Commission (that is how they exist) on the date of ratification of this Charter. The boundaries of the borough may be changed in the manner provided by law.

B. The Borough Seat shall be at all times located within the area of the borough boundary having the largest population and largest number of commerce businesses per square mile.

Section 1.04 Powers

The borough may exercise all powers of a home rule borough not prohibited by law or this Charter. All powers of the borough shall be exercised in the manner prescribed by this Charter or applicable laws or, if the manner is not thus prescribed, then in such a manner as the assembly or other authority may prescribe. This Charter is not intended to be exclusive or limiting. It shall be liberally construed to afford the borough all powers necessary to the conduct of its affairs.

Section 1.05 Inter-Governmental Relations

The borough may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one

**** Petersburg Borough Charter ****

or more local governments, the state, or the United States, or any agency or instrumentality of those governments.

ARTICLE 2

THE ASSEMBLY

Section 2.01 Legislative Powers

The legislative power of the borough is vested in the assembly.

Section 2.02 Terms and Representation

A. Composition of Assembly. The assembly, elected at large by the qualified voters of the borough, shall be composed of six assembly members and a mayor, elected to staggered terms.

B. Terms. The term of the office of all assembly members elected after the initial borough election shall be for three years and until a successor takes office. The term of office of the mayor shall be three years and until a successor takes office.

C. Initial Transition Terms. Within 60 to 90 days after Local Boundary Commission approval of borough formation, and in conjunction with the election that approves the borough and elects the assembly and mayor, the initial terms of the assembly shall be as follows: the two assembly member candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor takes office. The two candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor takes office. The two candidates receiving the next highest number of votes at large shall be elected for one-year terms and until a successor takes office. The candidate receiving the highest number of votes at large for mayor shall be elected for a three-year term and until a successor takes office. For purposes of computing the length of the terms for persons elected to initial terms, the period between the initial election and the first Tuesday of October immediately following that initial election will not be considered. The first regular election provided for in Section 5.01(a) will occur no earlier than twelve months after the effective date of this Charter.

D. Term of Office Begins. The term of office of the mayor and each assembly member begins upon certification of the results of the election at which the assembly member or mayor is duly elected.

E. Term Limits. The assembly, by ordinance and ratified by the voters, may adopt term limitations for the offices of mayor and assembly member. Term limitations shall not prohibit persons from serving at least two consecutive terms.

Section 2.03 Qualifications

A. Residency. Except as may be otherwise provided by law, only a qualified voter of the borough who has been a resident of the borough for at least one year immediately preceding election or appointment to office shall be qualified as assembly member or mayor. A resident is a person who has maintained their primary, physical residence in the borough.

**** Petersburg Borough Charter ****

B. Determination of Qualifications and Forfeiture. The assembly shall be the judge of the election and qualifications of its members and of grounds for forfeiture of office and for that purpose shall have power to subpoena witnesses, administer oaths and require production of evidence. An assembly member charged with conduct constituting grounds for forfeiture of office is entitled to a public hearing on demand.

C. The assembly shall adopt procedures pertaining to the nomination and election of assembly members and mayor by ordinance.

D. Transition/Residency: At the initial election of borough formation, the requirements for residency and voter registration for all candidates and voters shall be based on length of residency within the territory contained within the borough boundaries.

Section 2.04 Vacancies and Forfeiture of Office

A. Creation of Vacancies. The office of an elected borough assembly member or mayor becomes vacant upon death, resignation, or removal from office in any manner authorized by law, this Charter, other law, or forfeiture of office.

B. Forfeiture of Office. An elected borough assembly member or mayor shall forfeit office if:

1. Convicted of a felony.
2. Fails to comply with all qualifications prescribed by this Charter or applicable law.
3. Knowingly violates any prohibitions of this Charter.
4. Fails to attend three consecutive regular meetings of the assembly without being excused by the assembly.
5. Fails to take office within thirty days after election or appointment.
6. Ceases to be a qualified voter residing in the borough.
7. Violates section 19.03 of this Charter.
8. Is physically absent from the borough for ninety (90) consecutive days unless excused by the assembly;
9. Resigns and the resignation is accepted;
10. Is physically or mentally unable to perform the duties of office as determined by a two-thirds vote of the assembly;

C. Filling of Vacancies. The assembly shall, by ordinance, establish procedures for filling of vacancies in the office of assembly member or mayor. Within forty-five days after an assembly position becomes vacant, the assembly shall appoint a qualified person to serve until the next regular election when a qualified successor is elected at large and certified to fill the remainder of the unexpired term. If a vacancy occurs in the office of mayor, the vice mayor shall act as mayor until the next regular election when a qualified successor is elected at large and certified to fill the remainder of the unexpired term.

Section 2.05 Organization and Officers

A. Mayor. The mayor shall preside at meetings of the assembly and have the authority to preserve order and enforce rules of the assembly. The mayor shall be recognized as head of the borough government for all ceremonial purposes. The mayor has no administrative duties. The mayor, with majority vote of the assembly shall

**** Petersburg Borough Charter ****

appoint committee, board and commission members which are not elected. The mayor shall be counted for quorum purposes and shall vote in the same manner with the same restrictions as an assembly member. The mayor shall not initiate a motion. The mayor has no veto power.

B. Vice Mayor. Not later than the first regular meeting of the assembly in November each year, the assembly shall elect from its membership a vice mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor until the next regular election at which time a mayor shall be elected and certified to fill the remainder of the unexpired term.

Section 2.06 Salaries and Compensation

The assembly by ordinance must determine the salary of the mayor and assembly members. An increase in salary shall not take effect until the assembly meeting following the regular election after the ordinance has been adopted. The assembly may by ordinance provide for expense accounts and/or other payments to the mayor and assembly members for expenses incurred in their official duties.

Section 2.07 Meetings

The assembly must meet regularly and at such times and places as prescribed by ordinance. Special meetings must be held at the call of the mayor or of four or more assembly members. Reasonable notice of all regular and special meetings of the assembly shall be given. All meetings of the assembly must comply with the Alaska Open Meetings law and other applicable laws regarding those meetings; and at each meeting the public shall have reasonable opportunity to be heard.

Section 2.08 Rules and Record

The assembly must by ordinance determine its own rules and order of business and shall maintain a journal of its proceedings as a permanent public record.

Section 2.09 Voting

A. Quorum and Voting Requirements. Four assembly members constitute a quorum. No assembly action is valid or binding unless adopted by an affirmative vote of four or more assembly members. All assembly members present shall be required to vote subject to Section 19.03A of this Charter.

B. Roll Calls. A roll call vote must be taken whenever required by law or whenever requested by any member of the assembly. Roll call votes shall be entered in the journal. A roll call must be taken on the passage of ordinances and expenditures.

Section 2.10 Prohibitions

A. Other Public Offices, Employment or Contracts.

1. Except to the extent otherwise provided by state law, no borough assembly member or the mayor shall hold any other elected borough office, any other compensated borough office or any borough employment during term of office. Other than membership on an appointed committee, board or commission, no borough assembly member or the mayor shall be hired or appointed to any compensated borough office or borough employment for a period of one year after vacating office.

**** Petersburg Borough Charter ****

2. The relationship of independent contractor for goods and services does not constitute employment for the purposes of this section. Subject to any further limitations established by ordinance, elected borough officials may enter into contracts with the borough and may buy from, exchange with or sell to the borough provided that:

a. the contract, purchase, exchange or sale is awarded through a competitive bidding process in which sealed bids are submitted and the bid most advantageous to the borough is selected;

b. the contract, purchase, exchange or sale is approved by the assembly;

c. the goods or services contracted for, purchased, exchanged or sold at an amount to be set by ordinance.

B. Relationship with Employees. The assembly shall not recommend or direct the appointment or removal of any officer or employee of the borough except as provided by this Charter. Subordinates of the borough manager shall report to and obtain direction from the borough manager and not from the assembly, the mayor or individual assembly members.

C. Representation of Client. An assembly member may not represent any client before any borough department, agency, school district or utility.

Section 2.11 Investigations

The assembly may conduct hearings and may make investigations into matters affecting the borough and matters concerning the conduct of any borough department, office or agency. The assembly may subpoena witnesses, administer oaths, take testimony and require productions of evidence. Any person who fails or refuses to obey a subpoena or a lawful order issued in the exercise of these powers by the assembly shall be guilty of a misdemeanor.

Section 2.12 Clerk

There shall be a borough clerk who shall be an officer of the borough appointed by the borough manager and confirmed by the assembly. The assembly, upon recommendation from the manager, may suspend or remove the clerk at any time by vote of the assembly.

Section 2.13 Borough Attorney

There shall be a borough attorney appointed by the assembly who shall serve at the pleasure of the assembly. The borough attorney shall advise the borough assembly, manager or clerk concerning legal issues affecting the borough. The assembly may suspend or remove the borough attorney at any time by vote of the assembly.

Section 2.14 Port and Harbor Jurisdiction

The assembly shall regulate the use and development of all waters and submerged lands which are subject to the jurisdiction of the borough.

Section 2.15 Special Advisors

A. Advisors. The assembly may appoint special legal and financial advisors for bond issues or other matters and retain legal counsel as it requires.

**** Petersburg Borough Charter ****

B. Committees, Boards and Commissions. The assembly may establish committees, boards and commissions, and shall prescribe their duties, purpose and functions. The assembly, by resolution or ordinance, shall establish the qualifications and conditions of service of the appointed members. Non-elected members of committees, boards and commissions shall be appointed by the mayor subject to confirmation by the assembly. A quorum of any board or commission and the number of members required to approve an action shall be a majority of its membership unless otherwise determined by the assembly. All meetings of committees, boards and commissions shall be public and the public shall have reasonable opportunity to be heard.

C. By ordinance the assembly may create or designate itself to be a board of review, adjustment, equalization or election canvassing board.

Section 2.16 Parliamentary

The assembly shall appoint one of its members as parliamentarian who shall rule on procedural questions according to Roberts Rules of Order, the most current edition.

ARTICLE 3

LEGISLATION

Section 3.01 Action Required By Ordinance

In addition to other acts required by this Charter or other law to be done by ordinance, acts of the assembly that must be done by ordinance are those that:

- A. Adopt or amend an administrative code;
- B. Provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed;
- C. Levy taxes;
- D. Grant, renew or extend a franchise;
- E. Establish the rates charged by the borough utilities
- F. Authorize the borrowing of money;
- G. Establish procedures for the acquisition, conveyance, disposition or lease of real property of the borough;
- H. Propose amendments to this Charter;
- I. Adopt, with or without amendment, ordinances proposed under initiative powers;
- J. Fix the wages and benefits of members of the assembly
- K. Adopt, modify, or reject the comprehensive plan, land use or subdivision regulations, building and housing codes and the official zoning map;
- L. Amend or repeal any ordinance previously adopted except as otherwise provided in Article 6 with respect to repeal of ordinances reconsidered under the referendum power;
- M. Establish a formal procedure for acquisition from the state of land or rights in land and disposal of those lands or rights in land;
- N. Authorize any contract, other than a contract for the purchase, sale, conveyance, disposition or lease of property, which by its terms will not be fully executed within five years and which cannot be terminated by the borough upon not more than one-month's

**** Petersburg Borough Charter ****

notice without penalty.

- O. Establish, alter or abolish any borough department
- P. Establish service areas; and
- Q. Make appropriations and supplemental appropriations.

Section 3.02 Ordinance Procedures

Each proposed ordinance shall be in the form required by the assembly. The subject of each ordinance shall be expressed in its title. Each ordinance shall be confined to one subject, unless it is an appropriation ordinance or one codifying, revising or reorganizing existing ordinances. Except as otherwise provided in this Charter, the following procedure governs the enactment of all ordinances:

- A. All ordinances shall be prepared in writing and reviewed by the borough attorney.
- B. Ordinances shall be considered in first reading at a regular meeting. Prior to the final passage of any ordinance, a public hearing shall be held and the ordinance read and advanced at three separate meetings. The public hearing may be held in conjunction with the second or third readings of an ordinance. A proposed non-emergency ordinance may be read in full or by title only. No separate motion shall be entertained for entering an ordinance into the first, second or third reading. No ordinance, except an emergency ordinance, may be finally passed on the same day that it is introduced.
- C. Publication and Effective Date. Within fifteen days after its final passage every ordinance shall be published in a newspaper of general circulation within the borough and posted in the municipal office, post office, City of Kupreanof, Papke's Landing and at one other public place in the borough. Publication shall be in full or by number and title with a brief summary. Emergency ordinances and ordinances making, repealing, transferring or otherwise changing appropriations shall go into effect immediately upon final passage unless they specify a later time. All other ordinances shall go into effect as each specifies.
- D. Signature and codification. Each ordinance shall be signed by the mayor at its adoption and attested by the clerk. The clerk shall prepare and shall maintain a general codification of all borough ordinances of general applicability.

Section 3.03 Emergency Ordinances

- A. To meet an emergency, the assembly may adopt emergency ordinances. An emergency ordinance is an ordinance which in the judgment of the assembly is necessary for the immediate preservation of the public peace, health or safety and must become effective prior to the time when an ordinance of no emergency nature would become effective. An emergency ordinance shall contain a specific finding of emergency based on a statement of facts. An emergency ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of four members is required for adoption of an emergency ordinance.
- B. An emergency ordinance shall not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.
- C. An emergency ordinance is repealed by resolution or automatically expires in sixty days.

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Section 3.04 Ordinances – Adoption by Reference

The assembly by ordinance may adopt by reference codes, ordinances, standards, and regulations relating to matters which it has power to regulate. The code, ordinance, standard or regulation so adopted need not be enrolled in the book of ordinances, but a copy must be filed and kept in the office of the clerk or the office of the department enforcing the code or regulation. The clerk or enforcing department must keep copies of those codes, ordinances, standards and regulations in force for distribution or sale at their approximate cost.

Section 3.05 Nuisances

The assembly shall provide by ordinance for the declaration and abatement of nuisances which may be offensive or tend to endanger the health and welfare of the public. Assessment of the cost to abate a nuisance may be made against the property upon or in respect of which the nuisance exists.

Section 3.06 Power of Condemnation/Eminent Domain

A. The borough shall have power to acquire property inside its corporate limits, by condemnation for any municipal purpose, whether or not such property is already devoted to public use, and to condemn such excess beyond that needed as an actual improvement as may reasonably be required to protect, preserve or facilitate the making and financing of the improvement, and to sell or lease such excess property with restrictions necessary to protect and preserve the improvement.

B. When the borough acquires property by condemnation inside its corporate limits, any applicable provisions of state law relating to condemnation which are binding on the borough shall be observed.

C. Any and all action taken by the borough in acquiring private property by condemnation shall require a unanimous vote of the borough assembly. A unanimous vote by the assembly is required in addition to any state laws affecting the borough regarding eminent domain.

ARTICLE 4

BOROUGH MANAGER AND ADMINISTRATIVE DEPARTMENTS

Section 4.01 Borough Manager: Appointment, Term, Qualifications, Removal

There shall be a borough manager appointed by the majority of the assembly who serves at the pleasure of the assembly. At the time of appointment, the manager need not be a resident of the borough, but during the manager's tenure of office, the manager shall reside within the borough. Neither the mayor nor any assembly member may be appointed manager during the period of not less than one year after vacating office. The assembly may suspend or remove the manager at any time by a vote of the majority of the assembly.

Section 4.02 Borough Manager: Powers and Duties

The manager shall be the chief administrative officer and head of the administrative

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branch of the borough government. The manager shall execute the laws and ordinances and administer the government of the borough. The manager shall:

- A. Hire and Remove Employees. Appoint, lay off, suspend, demote or remove all directors or heads of administrative departments and all other officers and employees of the borough, except the borough clerk, personnel in the school district and personnel employed with Petersburg Medical Center. The manager may delegate this power and duty to directors or heads of departments and other administrative officers;
- B. Supervise Departments. Supervise and control all administrative departments, agencies, officers and employees appointed by the manager or by agencies and officers subordinate to the manager;
- C. Prepare Budgets. Prepare budgets as required by the assembly and annually for the general government, excluding the school district and medical center and submit them to the assembly. Be responsible for the administration of the budgets after they go into effect and recommend to the assembly any changes in the budgets the manager considers necessary;
- D. Report. Submit to the assembly, and make available to the public, a report at the end of the fiscal year on the finances and administrative activities of the borough for the preceding year;
- E. Make Recommendations. Keep the assembly advised of the financial condition and future needs of the borough and make recommendations on policy and other matters;
- F. Perform Other Duties. Perform other powers, duties and functions as the Charter may prescribe, and powers, duties and functions consistent with this Charter as the assembly may prescribe.

Section 4.03. Acting Borough Manager

If the borough manager is absent from the borough or is unable to perform duties, if the assembly suspends the borough manager, or if there is a vacancy in the office of borough manager, the assembly may appoint an acting borough manager to serve until the borough manager returns, until disability or suspension cease, or until another borough manager is appointed.

ARTICLE 5

ELECTIONS

Section 5.01 General Requirements

- A. Regular Elections. A regular election shall be held on the first Tuesday in October of every year.
- B. Special Elections. The assembly, by ordinance or resolution, may call special elections.
- C. Questions Submitted at Elections. The assembly, by ordinance or resolution, may submit questions to the voters at a regular or special election.
- D. Notice of elections. At least 30 days' published notice must be given for a regular or special election.
- E. Canvassing Returns – Certificates of Election. The Assembly shall canvass the

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returns of all borough elections, regular and special, and shall ascertain and declare the results, provided that the assembly may delegate this function to a board created by ordinance. The clerk shall promptly prepare, sign and issue certificates of election to all persons elected to office.

F. Laws Governing Elections. The provisions of state law applicable to borough elections, shall govern elections of the borough insofar as they are not superseded by this Charter or by ordinance.

G. Nominations. Candidates for assembly member, mayor, school board member, planning commissioner or hospital board member shall be nominated by a petition signed by at least twenty qualified voters of the borough. A nominating petition may not be accepted unless accompanied by a signed declaration of candidacy form completed by the nominee.

H. Non-Partisanship . Candidates for any elected borough office shall not file for election or run for office as a member of any party which is active in national or state elections.

I. Tie Votes: In the event of a tie vote for candidates, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the assembly.

ARTICLE 6

INITIATIVE, REFERENDUM AND RECALL

Section 6.01 Initiative and Referendum

The powers of initiative and referendum concerning laws and resolutions of the borough are reserved to the voters of the borough as prescribed by law. The assembly shall provide for the procedures of initiative and referendum by ordinance.

A. Initiative.

1. Applications of Initiative. Through the initiative process, voters of the borough may initiate and subsequently enact, amend or repeal borough charter provisions, ordinances, resolutions and existing provisions of borough code.

2. Restrictions. Initiative may not be used for dedication of revenues, making or repealing appropriations, creating courts and prescribing their rules, or enacting local or special legislation. Initiative shall not be used to compel the adoption of a measure that is not enforceable by law.

3. Voidance of Petition. An initiative petition is void if the assembly enacts substantially the same measure prior to the election.

4. Failed Initiative. If an initiative fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

B. Referendum.

1. Applications. Through the referendum process, voters of the borough may compel a legislative measure that has been approved by the assembly to be referred for voter ratification.

2. Restrictions. Referendum shall not be applied to dedications of revenue, appropriations, local or special legislation, or laws necessary for the immediate preservation of the public peace, health or safety.

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3. Suspension of Legislation. A referendum petition may only be filed within 90 days following the effective date of the legislative measure in question. Filing of a referendum petition suspends the ordinance or resolution and the assembly may not enact a substantially similar measure during the period of suspension. The suspension terminates on a finding of insufficiency of the petition or upon certification of a majority vote against repeal.

4. Voidance of Peition. A referendum petition is void if the assembly repeals the measure in question prior to the referendum election.

5. Failure. If a referendum fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

C. Repealing or Altering Initiative and Referendum Measures. The assembly may not repeal or substantially alter an ordinance enacted by initiative within two years after certification of the election at which the initiative was approved. Neither shall the assembly repeal or substantially alter a provision enacted or adopted under 6.01A (3) above within two years following its enactment or adoption. Further, the assembly may not enact or adopt a provision substantially similar to the one repealed under 6.01B (4) above within two years following its repeal.

Section 6.02 Recall

An official who is elected or appointed to any elected borough office may be recalled by the voters of the borough as provided by state law. The assembly, by ordinance, may further regulate the recall process insofar as regulation is not in conflict with the constitution of the State of Alaska or other state law.

ARTICLE 7

PLANNING

Section 7.01 Planning Commission

A. Membership, Qualification and Term. There shall be a planning commission consisting of seven members who shall be elected at large. A candidate for planning commission must be a qualified borough voter and, in addition, has resided in the borough for a period of one year prior to taking office. The term of office shall be for three years and until a successor takes office. The initial terms of the planning commission will be staggered to allow for uninterrupted continuation of commission functions.

B. Powers and duties. Powers and duties of the planning commission shall be established by an ordinance approved by the assembly.

C. Initial Transition Terms: Within 60 to 90 days after Local Boundary Commission approval of borough formation, and in conjunction with the election that approves the borough and elects the assembly and mayor, the initial terms of the planning commission shall be as follows: the three planning commission candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor takes office. The two candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor takes office. The two

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candidates receiving the next highest number of votes at large shall be elected for a one-year term and until a successor takes office. For purposes of computing the length of the terms for persons elected to initial terms, the period between the initial election and the first Tuesday of October immediately following that initial election will not be considered. The first regular election provided for in Section 5.01 (a) will occur no earlier than twelve months after the effective date of this Charter.

D. The provisions of this Charter applicable to the assembly members and mayor apply to planning commission members to the extent permitted by law.

Section 7.02 Comprehensive Plan

The assembly, by ordinance, shall adopt, implement and from time to time modify, a comprehensive plan which shall be presented to the assembly by the planning commission. The comprehensive plan shall set forth goals, objectives and policies governing the future development of the borough.

Section 7.03 Platting Regulation and Subdivision Regulation

There shall be a platting authority constituted as provided for by ordinance. The assembly, by ordinance, shall provide for the regulation of the subdivision of land within the borough.

Section 7.04 Planning and Platting within the City of Kupreanof

The authority for platting, planning and land use regulations within the corporate boundaries of the City of Kupreanof shall be vested with the City of Kupreanof.

Section 7.05 Planning and Platting within the Unincorporated Areas

In the unincorporated neighborhoods within the borough, the assembly may establish, by ordinance, advisory committees for the planning, platting and land use regulation pertaining to the area encompassed by the respective neighborhoods. The assembly shall, by ordinance, establish the role and authority of each advisory committee.

ARTICLE 8

EDUCATION

Section 8.01 Public School System

The Petersburg Borough School District shall provide area wide public education for the borough as prescribed by Alaska statutes. The school district shall be operated by a school board of five members elected at large.

Section 8.02 Membership, Qualification and Term

A. A candidate for school board must be a qualified borough voter and reside in the borough. The term of a school board member is three years and the terms must be staggered to allow for the uninterrupted continuation of school board functions

B. Initial Transition Terms: Within 60 to 90 days after Local Boundary Commission approval of borough formation, and in conjunction with the election that approves the borough and elects the assembly and mayor, the initial terms of the school board shall

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be as follows: the two school board candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor takes office. The two candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor takes office. The one candidate receiving the next highest number of votes at large shall be elected for a one-year term and until a successor takes office. For purposes of computing the length of the terms for persons elected at initial terms, the period between the initial election and the first Tuesday of October immediately following that initial election will not be considered. The first regular election provided for in Section 5.01 (a) will occur no earlier than twelve months after the effective date of this Charter.

C. The provisions of this Charter applicable to the assembly members and mayor apply to school board members to the extent permitted by state law.

Section 8.03 Powers and Duties of the School Board

The school board has all the powers and duties provided by AS 14, including, but not limited to, the powers to:

- A. Formulate policy for the operation of the schools;
- B. Appoint, promote, demote, suspend and remove the school district superintendent;
- C. Generally supervise school district fiscal affairs, including preparation and submission of the annual budget and six-year capital improvements plan; and
- D. Implement and maintain a five-year curriculum and instruction plan.

Section 8.04 Joint Meetings

The assembly and school board shall meet at least once yearly in public session to discuss and coordinate financial planning, capital improvement needs, comprehensive plans for education, and other matters of concern.

Section 8.05 Administrative Procedures

The borough assembly shall by ordinance establish procedures for administration of school district finances and buildings and which allow for the greatest possible autonomy of the school board within the limitations of this Charter.

ARTICLE 9

MEDICAL CENTER

Section 9.01 Borough Medical Center

The Petersburg Medical Center shall operate and maintain an area wide medical services and hospital facility for the borough. The medical center shall be operated by a hospital board of seven members elected at large.

Section 9.02 Membership, Qualification and Term

A. A candidate for hospital board must be a qualified borough voter, in addition, has resided in the borough for a period of one year prior to taking office. The term of a

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hospital board member is three years and the terms must be staggered to allow for the uninterrupted continuation of hospital board functions.

B. Initial Transition Terms: Within 60 to 90 days after Local Boundary Commission approval of borough formation, and in conjunction with the election that approves the borough and elects the assembly and mayor, the initial terms of the hospital board shall be as follows: the three hospital board candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor takes office. The two candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor takes office. The two candidates receiving the next highest number of votes at large shall be elected for a one-year term and until a successor takes office. For purposes of computing the length of the terms for persons elected to initial terms, the period between the initial election and the first Tuesday of October immediately following that initial election will not be considered. The first regular election provided for in Section 5.01 (a) will occur no earlier than twelve months after the effective date of this Charter.

C. The provisions of this Charter applicable to the assembly members and mayor apply to hospital board members to the extent permitted by law.

Section 9.03 Powers and Duties of the Hospital Board

The borough assembly, by ordinance, shall provide for the powers and duties of the hospital board, allowing for the greatest possible autonomy to operate and maintain borough medical facilities in the best interests of the public's health, including, but not limited to, the powers to:

- A. Formulate policy for the operation of the hospital
- B. Appoint, promote, demote, suspend and remove the hospital administrator
- C. Generally supervise hospital fiscal affairs, including preparation and submission of an annual budget and six-year capital improvements plan for equipment and buildings.

Section 9.04 Joint Meetings

The assembly and hospital board shall meet at least once yearly in public session to discuss and coordinate financial planning, capital improvement needs, comprehensive plans for health care and other matters of concern.

Section 9.05 Administrative Procedures

The borough assembly, by ordinance, shall establish procedures for the administration of borough hospital finances, buildings and property, allowing for the greatest possible autonomy of the hospital board to administer hospital affairs.

ARTICLE 10

UTILITIES

The water, wastewater, electric and refuse services previously owned and operated by the City of Petersburg are borough utilities and must be operated in a business like manner. The assembly shall have power to acquire, own, operate, promote and

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regulate public utilities, either within or beyond the borough corporate limits. The assembly may also sell utility services beyond the borough corporate limits.

Section 10.01 Management and Rates

A. The assembly shall provide by ordinance for the establishment, management, operation, regulation, use, promotion, control and the fixing and collecting of rates of all borough utilities. The rates to be charged must provide a sufficient return.

B. No agreements shall be made for utility services outside of the borough which will return to the borough less than net positive revenues. Higher rates for utility service outside of the borough may be established by the assembly.

C. Transactions of each borough utility shall be recorded in a separate group of accounts which shall be classified in accordance with generally accepted accounting practices. An annual independent audit of all borough utilities must be performed as required by Section 11.15 of this Charter.

Section 10.02 Use of Utility Assets

Except as provided in this article, none of the assets, income or property of the borough utilities may be placed in the borough general fund or used for any purpose other than for the borough utilities unless reasonable compensation, as determined by the assembly, is received by the utility.

Section 10.03 Borrowing

Except as otherwise provided in this subsection the borough utilities may borrow money and issue bonds or other evidences of indebtedness in the manner provided in article 13. No borrowing, issuance of bonds or other evidence of indebtedness for the utilities may occur unless approved by the assembly and, to the extent required under article 13 of this Charter, a majority vote of the qualified voters of the borough who vote on the question of approving the borrowing, bonds or other evidences of indebtedness.

Section 10.04 Sale of borough utility

The borough owned water, wastewater, electric and refuse services may not be sold or leased except by authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the borough who vote on the question of approving the ordinance.

Section 10.05 Cooperation with other governments/Thomas Bay Power Authority

There is created a Thomas Bay Power Authority owned jointly and equally by the municipalities of Petersburg and Wrangell, Alaska, for the purpose of constructing and operating a hydro-electric power generating utility which authority shall have all express, implied and incidental powers, including but not limited to, acquiring extra-territorial properties, and obtaining financing and the issuance of Revenue Bonds in its own name, and which authority may incorporate or otherwise reorganize as a separate entity, but in the event to be managed jointly by a commission of representatives from the municipalities as they shall respectively appoint.

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ARTICLE 11

FINANCE

Section 11.01 Fiscal Year

The fiscal year of the borough shall begin on the first day of July and shall end on the last day of June, unless otherwise provided by ordinance.

Section 11.02 Submission of Budget, Capital Improvements Program and Message

No later than 60 days before the end of the current fiscal year, the manager shall submit to the assembly a budget for the following fiscal year, a capital improvements program and an accompanying explanation message of both. The assembly may grant an extension of not to exceed 30 days if compelling reasons exist.

Section 11.03 Scope of Budget

A. Complete financial plan. The budget shall be a complete financial plan for all the operations of the borough, showing all reserves, all estimated revenues from all sources and all proposed expenditures for all purposes.

B. Form. The budget shall contain at least the following:

1. A comparative statement of actual expenditures and actual revenues from the preceding fiscal year;
2. Estimated expenditures and estimated revenues for the current fiscal year;
3. Projected revenues and expenditures for the budget year, and
4. A brief explanation of each item.

C. Balanced budget. Proposed expenditures shall not exceed the total available reserves and the revenues collected but not expended or allocated at the time the proposed budget is adopted.

Section 11.04 Scope of Capital Improvements Program

A. The capital improvement program shall be a plan for capital improvements proposed for the following 6 fiscal years, together with the estimated cost of each improvement and the proposed method of financing it. It shall contain at least the following:

1. A summary of current capital improvements which are unfinished;
2. A simple, clear summary of the detailed contents of the program;
3. Capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.

B. Capital improvements to be financed in the following fiscal year shall be included in the budget as well as the capital improvements program.

Section 11.05 Scope of Message

The manager's message shall contain an explanation of the budget both in fiscal terms and in terms of work to be done, a description of the important features of the budget,

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an outline of the proposed financial policy of the borough for the following fiscal year and an explanation of each capital improvement to be undertaken within the following six fiscal years.

Section 11.06 Hearing

A public hearing shall be held on the budget, including the capital improvements program. All persons interested shall have an opportunity to be heard. At least ten days prior to the hearing, the assembly shall:

1. Publish a summary of the budget and capital improvements program and a notice setting out the time and place of the public hearing in a newspaper of general circulation within the borough and posted in the municipal office, post office, City of Kupreanof, Papke's Landing and at one other public place in the borough; and
2. Deliver copies of the notice and summary of the budget and capital improvements program and the manager's message to radio and television stations operating in the borough.

Section 11.07 Assembly Action on Budget

The assembly, by ordinance, shall adopt a budget, including capital improvements, not later than June 15. If the assembly fails to do so, a 30 day continuing budget resolution allowing a rate of expenditure of 80% of projected revenues shall be imposed.

Section 11.08 Certification and Distribution

The budget adopted shall be certified by the mayor and clerk and shall be a public record available at the clerk's office for distribution to the public.

Section 11.09 Supplemental and Emergency Appropriations

A. If during any fiscal year there are available revenues not anticipated in the budget estimates, the assembly, by ordinance, may make supplemental appropriations for the year up to the amount of the additional revenues.

B. Upon declaration by the assembly that a public emergency exists and describing the emergency in clear and specific terms, the assembly may make emergency appropriations. Such appropriations may be made by emergency ordinance.

Section 11.10 Reduction of Appropriations

The assembly, by ordinance, may reduce any appropriation, except for debt service. No appropriation may be reduced by more than the amount of the unencumbered balance.

Section 11.11 Lapse of Appropriations and Surpluses

At the end of the fiscal year, an unencumbered appropriation shall lapse into the fund from which appropriated; provided that an appropriation for a capital improvement, or in connection with requirements of federal or state grants, shall not lapse until its purpose has been accomplished or abandoned.

Section 11.12 Administration of Budget

A. No payment may be made and no obligation incurred against the borough except

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in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the manager ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation.

B. Every obligation incurred and every authorization of payment in violation of this Charter shall be void. Every payment made in violation of the provision of this Charter shall be illegal. All officers or employees of the borough who knowingly authorize or make such payment shall be jointly and severally liable to the borough for the full amount so paid.

C. The manager shall submit monthly to the assembly, information comparing estimated and actual revenues and expenditures to the end of the preceding month.

Section 11.13 Purchasing; Contracting

A. The assembly, by ordinance, shall provide for competitive bidding for purchase of goods and services by the borough and sales of surplus borough property and for any exceptions.

B. The assembly, by ordinance, shall establish provisions for approval of borough contracts and exceptions. The provisions shall address, at a minimum:

1. Authority of assembly. All contracts, except as provided in subsection 2 of this section, shall be authorized by the assembly and, if in writing, shall be signed by the manager and clerk. Contracts shall be approved as to form by the borough attorney if the assembly requires such approval.

2. Purchase and Sale of Borough Property. Procedures for the purchase and sale of borough property and equipment shall include a provision for the centralized purchasing on behalf of the borough. The procedures shall also provide the dollar limit within which purchases of the borough property and equipment may be made without specific assembly approval and define those circumstances where competitive bidding is not required.

C. Limitations on Contractual Power.

1. The assembly shall have power to enter into only those contracts which, by their terms, will be fully executed within a period of five years. This limitation shall not apply to contracts concerning interests in real property. Any contract, other than a franchise, which will not be fully executed within a period of five years shall first receive the approval of a majority of the qualified electors of the borough who vote on the contract. This restriction shall not apply to any contract for services with a public utility or with other governmental units, or to contracts for debt secured by the bonds or notes of the borough.

2. The assembly shall provide by ordinance the procedure whereby the borough may purchase, sell, lease or dispose of real property. No action of the assembly to dispose of any borough interest in real property dedicated to public use shall be final until the resolution to do so has been on file in the office of the borough clerk for 30 days.

3. Except as authorized in subsection 11.13B2 above, each contract for the construction of public improvements or for the purchase or sale of personal property shall be let only after opportunity for competitive bidding and after appropriate notice of not less than two weeks. All bids shall be opened in public at the time and place

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designated in the invitation for bids. The assembly may reject any or all bids. If, after opportunity for competitive bidding, no bids are received which are satisfactory to the assembly, it may authorize the manager to negotiate for a contract in the open market. The assembly may waive any and all irregularities.

4. The assembly may approve contracts for engineering, architectural, legal, medical and other professional services for the borough without competitive bidding. Such contracts shall not exceed two years, except for completion of work in progress under architectural or engineering contracts.

D. Business Dealings with the borough. The assembly shall provide by ordinance the procedure whereby an officer or employee of the borough, who intends to have business dealings with the borough whereby he or she may derive income or benefits other than those provided as a remuneration for official duties or the duties of employment, shall file with the clerk a statement, under oath, setting forth the nature of such business dealings and his or her interest therein, not less than ten days before the date when action may be taken by the assembly or by any officer or agency of the borough upon the matter involved. Such statement shall be sufficient for continuing transactions of a similar or like nature for six months from the date of its filing.

E. Personal Interest. Officers of the borough and employees of the borough shall not be eligible to sell, barter, or supply anything to the borough or purchase anything from the borough while holding office or employment or for a period of six months after leaving office or employment unless an invitation to submit sealed bids is published, and the borough complies with all ordinance provisions regarding the acceptance or rejection of bids. This section shall not apply to things valued less than \$5000 or those things which the borough offers generally to the public (as for example, utility services) which shall be purchased or offered at prices or rates prevailing in the community and without discrimination.

Section 11.14 Enterprise Funds

Revenues from a municipal enterprise activity shall be used for the direct operating expenses and other expenses of the enterprise, such as debt retirement and providing for the establishment of an enterprise fund replacement reserve account for major maintenance and repairs. Any other use of enterprise fund revenues shall be made as authorized by ordinance or by budgetary action. If any general funds are used for enterprise fund projects, the amount will be repaid by enterprise activity according to procedures established by ordinance.

Section 11.15 Independent Audit

An independent audit shall be made of all accounts of the borough at least annually and more frequently if deemed necessary by the assembly. The annual audit shall be made by a certified public accountant employed by the borough and shall be completed within ninety days following the close of the fiscal year. The audit shall be open to public inspection during normal working hours.

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ARTICLE 12

TAXATION

Section 12.01 Powers

The borough has all powers of taxation that home rule boroughs may have under the state constitution and law.

Section 12.02 Sales and Use Taxes; Ratification of Sales or Use Tax Rate Increases.

A. The borough may by ordinance levy sales or use taxes on an area wide basis, a non area wide basis and a service area basis.

B. Any sales or use tax, or change in the rate or exemptions to the sales tax or use tax, shall be by ordinance, ratified by a majority of the qualified voters of the borough voting on the question

Section 12.03 Tax Cap, Assessment, Levy and Collection of Property Taxes; Exemptions

The borough shall provide for the annual assessment, levy and collection of taxes on property. The ad valorem tax on real property shall not exceed 10 mills, except ad valorem tax on real property necessary to retire debt approved by the voters is excluded from this limit. Any exemption from taxation, other than those required by law, shall be by ordinance ratified by a majority of the qualified voters voting on the question.

Section 12.04 Private Leaseholds, etc., in Property Owned or Held by the United States, the State or Its Political Subdivisions

Private leaseholds, contracts or interests in land or property owned or held by the United States, the state or its political subdivisions, shall be taxable to the extent of the private interests.

Section 12.05 Assessment -- Equalization

The taxable status of property shall, for purposes of property taxes, be determined as of the first day of January or such other date as may hereafter be prescribed by law or ordinance, which is called the assessment day. Values on the assessment rolls are determined by the full and true value according to the facts existing on the assessment day for the year for which the assessment is made, and no change in the status of property after that day shall be considered in determining its value. In determining the values, any standards of appraisal established by law or ordinance shall be followed. The assembly, acting as the board of equalization, shall equalize valuations of property assessed; provided that the assembly by ordinance may delegate this power to a board created by ordinance when not prohibited by law.

Section 12.06 Lien on Real Property

The borough shall have a first lien on all real property and personal property against which borough taxes are levied for the taxes and any collection charges, penalties and

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interest that may accumulate thereto; and the lien continues until the taxes and any charges, penalties and interest are paid.

Section 12.07 Protection of Lien on Property

The borough may protect its lien for taxes on real property by sale at tax sale, or by purchasing the real property at any tax sale or other public sale, by direct negotiation with the owner, or in any other legal manner. Any such procedure shall be deemed to be for a public purpose. When the borough has acquired an interest in real property to protect a tax lien, the owner of any interest in that real property may, within the time as provided by law, redeem the same by paying the delinquent borough taxes and all accrued charges, penalties and interest thereon, as provided by law or ordinance. After the borough has held any tax delinquent real property for the time required by law, it may hold the same for public use or may sell it as provided by state law.

ARTICLE 13

BORROWING

Section 13.01 General-Obligation Bonds, and Revenue Bonds

A. Power to Borrow. The borough has the power to borrow money and to issue general obligation bonds, revenue bonds or other evidences of indebtedness therefore, but only when authorized by the assembly for capital improvements and ratified at an election by a majority of those qualified to vote and voting on the question.

B. Area wide, Non-area wide and Service Area Indebtedness. The borough may incur indebtedness:

1. On an area wide basis when exercising powers on an area wide basis;
2. On a service area basis when exercising powers through a service area;
3. On a non-area wide basis when exercising powers on a non-area wide basis.

Indebtedness incurred on a service area basis must be repaid from revenues and taxes received from the service area, indebtedness incurred on a non-area wide basis must be repaid from revenues and taxes received from the non-area wide portion of the borough and indebtedness incurred on an area wide basis must be repaid from revenues and taxes received area wide. The full faith and credit of the borough may, however, be pledged to guarantee repayment of indebtedness incurred on a service area basis or on a non-area wide basis if the indebtedness has been approved as required by this subsection. If the indebtedness is incurred for the exercise of area wide powers, the election approving the indebtedness must be area wide. If the indebtedness is incurred on a service area basis and is to be repaid solely from revenues and taxes received from the service area, the election approving the indebtedness must be among the voters of the service area. If the indebtedness is incurred on a non-area wide basis and is to be repaid solely from revenues and taxes received from the affected area, the election approving the indebtedness shall be among the voters of the affected area. If the full faith and credit of the entire borough is pledged for the payment of indebtedness incurred on a service area or non-area wide

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basis, then the indebtedness must be approved on an area wide and on a service area or non-area wide basis.

C. General-obligation evidences of indebtedness may also be secured by revenues from a revenue producing utility or enterprise when they are issued for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement or equipment of the utility or enterprise, or by other designated funds or revenues specifically pledged for payment of principal and interest thereon. Capital improvements as used herein above may also include a part of all of the borough's share of the cost of public improvement of which a part is to be paid by benefited property. Bond anticipation notes may be issued following bond issue approval, and pending sale of the bonds.

D. The requirements for ratification do not apply to borrowing money to meet appropriations for a particular fiscal year, to indebtedness to be paid from special assessments to be made on benefited property, nor to refunding indebtedness.

Section 13.02 Notice of Bond Election

A. Before holding any election required by this article the assembly shall cause a notice of bond indebtedness to be published once a week for three consecutive weeks in a newspaper of general circulation in the borough. The first publication must be at least 20 days prior to the date of election. For elections approving the issuance of general obligation bonds or revenue bonds the notice shall contain the following information:

1. The amount of the bonds, purposes of issuance and length of time within which the bonds shall mature;
2. The amount of the estimated annual debt service on the proposed bonds based upon an estimate of the anticipated interest rate;
3. The amount of the current total general obligation indebtedness of the borough including authorized but unsold bonds;
4. The amount of the current year's debt service on the outstanding bonds of the borough; and
5. The current total assessed valuation within the borough.

B. For bonds secured by a pledge of taxes to be levied in a service area or on a non area wide basis the notice shall also contain the information required in (3), (4), and (5) relative to the service area or other area. Instead of the information required in (3), (4) and (5) for revenue bonds that are not also secured by a general obligation pledge, the notice must contain the amount of current indebtedness secured by the applicable revenues, including authorized, but unsold, bonds and the amount of the current year's debt service on outstanding bonds of the borough secured by a pledge of the applicable revenue.

C. Omissions or errors of information required by (2), (3) and (4) and (5) shall not invalidate any election.

Section 13.03 Borrowing to Meet Appropriations

The borough may borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year, when authorized by the assembly, and without submitting the question to the voters. The total of that indebtedness shall never exceed 25% of expected revenues of that year. All debts so

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contracted shall be paid before the end of the next fiscal year.

Section 13.04 Revenue Bonds and Borrowing

The borough may borrow money and issue revenue bonds or other evidences of indebtedness therefore, the principal and interest of which are payable solely out of, and the only security of which is, the revenues of a revenue producing utility or enterprise; but only when authorized by the assembly for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, or equipment of the said utility or enterprise, or for refunding or for purposes authorized by section 13.03 of this Charter. Bond anticipation notes may be issued following the approval of a bond issue under this section and pending sale of the bonds.

Section 13.05 Limitations Upon Borrowing Power

A. The outstanding general obligation indebtedness of the borough incurred for all public purposes shall not at any time exceed ten percent (10%) of the assessed value of all real and personal property of the borough. The restrictions imposed by this Charter on contracting debt shall not apply to debt incurred through the issuance of revenue bonds when the only security is the revenues of the enterprise, nor to bonded indebtedness to be paid from special assessments on benefited property, nor to refunding indebtedness. In determining the debt limit of the borough, there shall be deducted from the amount of the outstanding bonded indebtedness any amount credited to or on deposit for debt retirements, and any portion of reserve funds or accounts pledged to the payment of the principal amount of any outstanding bonded indebtedness. Money may be borrowed for reasons of disaster, beyond the limit imposed by this section.

Section 13.06 Non-Recourse Bond Financing

The borough may enact ordinances authorizing the issuance of non-recourse revenue bonds or other non-recourse revenue obligations and the application of the proceeds thereof subject to the following limitations:

A. Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant to this section shall be secured and payable from any source except revenues, including tax revenue, of the borough

B. Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant to this section shall not be payable from, or secured by, any borough assets, tax funds or governmental revenue, or by all or part of the faith and credit of the borough.

C. The restrictions of Articles 10, 11 and 13 of this Charter shall not be construed as limitations upon the authority granted by this section. Non-recourse bonds and other non-recourse revenue obligations may be issued pursuant to this section without ratification at an election.

Section 13.07 Unexpended and Unencumbered Balances

Every bond or other evidence of indebtedness must contain a statement of the purpose for which it is issued, and the proceeds thereof shall not be used for any other purpose, except that, whenever any proceeds of an issue remain unexpended and

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unencumbered for the purpose for which issued, the assembly shall authorize the use of the unexpended and unencumbered funds only for the following purposes, which are listed in descending order of priority:

- A. For the retirement of the issue;
- B. If the issue has been fully retired, then for the retirement of other bonds or obligations issued on the same area wide, service area or non area wide basis;
- C. If there are no such other bonds or obligations of the assembly outstanding, then for any purpose related to the same area wide, service area or non-area wide purpose.

Section 13.08 Voiding Authorization of Bonds

The assembly, by resolution or ordinance, may void the authorization of any unsold bonds or other evidences of indebtedness at any time. Every obligation must be sold within the ten years following the adoption of the ordinance authorizing its issuance or the ratification of the issuance by the qualified voters of the borough, whichever is later, except when the sale has been delayed by an action to determine the validity of the proceedings authorizing the issuance of the obligations, in which case the period of the delay may be added to the ten years. Authorization of obligations not sold within the time limits provided shall lapse unless otherwise voided at an earlier date by the assembly.

Section 13.09 Assembly to Have Power to Regulate

The assembly shall regulate the indebtedness of the borough and the issuance of bonds and other evidences of indebtedness, regardless of type or purpose, including general obligation, revenue, special-assessment, refunding and other, subject only to the limitations imposed by the state constitution, other state law and this Charter.

Section 13.10 Challenges to Bond Elections

Any person wishing to controvert or challenge the validity of a bond election and procedures attendant thereto, either revenue bond proposition or general obligation bond proposition, must file with the office of the clerk written notice stating the specific grounds for challenge within 30 days from certification of the election results. The election at which the approval or rejection of a bond question or proposition was certified may be challenged in whole or in part, and shall be on one or more of the following grounds.

- (1) Mal-conduct, fraud or corruption of an election official sufficient to change the results of the election;
- (2) Existence of a corrupt election practice as defined by statute;
- (3) Procedural irregularities or omissions pertaining to bond election requirements sufficient to change the results of the election.

ARTICLE 14

SERVICE AREAS, AREA WIDE AND NON-AREA WIDE POWERS

Section 14.01 Area wide and Non-area wide Powers

Except as otherwise required by this Charter or by applicable state law, all powers of

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the borough may be exercised on an area wide, or non-area wide basis except those powers listed in Sections 14.02 and 14.05.

Section 14.02 Services to be Provided Only by Service Area

A. The following powers shall be exercised only through service areas:

1. The establishment and operation of police departments, the hiring of police officers or the contracting for the services of police officers;
2. The establishment and operation of fire and emergency medical services departments, the hiring of firefighters and the contracting for fire fighting services;
3. The collection but not disposal of solid waste.
4. Water, sewer and electric services;
5. Street construction and maintenance;
6. Building code enforcement
7. Parks and recreation; and
8. Animal control

B. Until otherwise changed, those areas which were, at the time this Charter was approved, a part of the former City of Petersburg's public water system or sanitary sewage system or which were within the boundaries of the former City of Petersburg shall be included within a service area for each and all of the above powers and for the power to build, operate, maintain and replace the public water system, sanitary sewage services, roads, bridges, sidewalks, culverts, storm sewers and drainage ways.

C. All other service areas in existence on the date this Charter becomes effective shall continue in effect until such time as changed as provided in this article and the borough shall exercise the same powers within those service areas as were exercised by the former governing body.

D. Nothing in this Charter except section 14.06 prohibits the borough from exercising any other power on a non-area wide basis or through service areas.

E. No area wide power shall be interpreted to include or authorize any of the powers described in 14.02 A.

Section 14.03 Creation, Expansion, Consolidation, Alteration and Termination of Service Areas.

A. Creation of Service Areas. The assembly may create new service areas only by an ordinance that describes the boundaries of the service area and the powers to be exercised therein and, which is either:

1. Approved by a majority of the voters residing within the proposed new service area; or
2. Consented to in writing by all of the owners of real property within the boundaries of the proposed service area if no voters reside in the proposed service area.

Provided, however, that the assembly by ordinance may establish a process to provide for de minimis exemptions to boundary changes that need not be approved as provided in subsection (1) and (2) above.

B. Expansions or Reductions of Service Areas. The boundaries of a service area may only be expanded or reduced by an ordinance adopted by the assembly which

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describes the proposed new boundaries of the service area and the powers to be exercised therein and which is approved by both:

1. A majority of the voters residing within the boundaries of the existing service area or, in the case of a reduction, a majority of the voters who will remain within the boundaries of the service area after the reduction; and

2. A majority of the voters residing in the area which will be added to or subtracted from the existing service area or, if no voters reside within that area, by written consent of all owners of real property within the area which will be added to or subtracted from the existing service area.

C. Consolidation of Service Areas. Service areas may be consolidated for any or all of the services provided in each service area. The consolidation shall be by an ordinance adopted by the assembly and approved by a majority of the voters residing in each of the service areas to be consolidated.

D. Expansion or Reduction of Powers. When a service area has been established for the exercise of one or more powers, the borough may exercise additional service area powers in that service area or reduce the service area powers exercised in that service area only by an ordinance adopted by the assembly and approved by a majority of the voters residing within the service area. But any power, other than those listed in section 14.06 of this Charter that was previously exercise by the City of Petersburg may, without approval of the voters, be exercised by the borough on and in the area previously known as the City of Petersburg.

E. Termination. Any service area may be terminated only by an ordinance adopted by the assembly which describes the boundaries of the service area and the services to be terminated and which is either:

1. Approved by a majority of the voters residing within the service area to be terminated; or

2. Consented to in writing by all of the owners of real property within the boundaries of the service area to be terminated if no voters reside in the service area.

The ordinance shall provide for the disposition of the service area's assets and shall provide for payment of the service area's indebtedness and ongoing operational and maintenance expenses from revenues obtained from the service area.

F. Majority of Voters. For purposes of this section the term "majority of the voters" shall mean a majority of the qualified voters casting a ballot on the proposition at a general or special election.

Section 14.04 Criteria for Establishing Service Areas

Service areas shall be established according to criteria of need and economic operating efficiency and shall comprise the area to which the services shall be provided. A new service area shall be established only after assembly determination that such services cannot be reasonably provided by an existing service area or by alteration of an existing service area.

Section 14.05 Financing and Management

A. Service Area Taxes. The assembly may levy taxes, assessments or other charges within a service area to pay for the costs of that service area. Funds raised by

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these taxes, assessments and charges shall not be used for any purpose other than to pay for the costs of the service area.

B. **Supervision of Service Areas.** The assembly may provide for an appointed or elected board to supervise the furnishing of services in a service area or may exercise such supervision by itself. The assembly or board shall determine the cost and levels of service, the means, methods and facilities for providing the service and all requirements for receiving the service.

C. **Use of Property and Assets of a Service Area.** Until a service area is terminated, revenues, property and assets acquired for the service area shall not be used for any other purpose. Service area equipment, assets, property and personnel may, however, be used for areas beyond the boundaries of the service area when such use is for purposes of mutual aid, intergovernmental assistance or cooperation, law enforcement or emergency services. With the approval of the assembly, service areas may participate in joint ventures, sharing of revenues, equipment, assets, property and personnel, or other mutual assistance and cooperation provided that the service area is reasonably compensated in proportion to the revenues, equipment, property, personnel, and assets it contributes. Reasonable compensation may be in the form of services, money, future obligations, or other forms determined by the assembly.

Section 14.06 Area wide Powers

In addition to all other powers which the borough may exercise on an area wide basis, the following powers shall be exercised on an area wide basis:

A. The power to dispose of solid waste whether through recycling, landfilling or any other means and the power to operate, maintain, monitor, repair or remove landfills including those previously owned or operated by the City of Petersburg whether or not such landfills were in operation or were closed on the effective date of this Charter;

B. The power to provide public libraries, civic centers, museums and associated services;

C. The power to provide for hospital and public health services including, but not limited to, those services formerly provided by the City of Petersburg's medical center. The power to provide pre-hospital emergency medical services must be exercised as provided in Section 14.02.

D. The power to provide port and harbor facilities and services;

E. The power to provide cemetery and mausoleum services.

F. The power to provide 911 emergency dispatch services;

G. The power to provide economic development; and

H. The power to provide disaster planning, emergency communications and emergency response.

ARTICLE 15

CITY OF KUPREANOF

The City of Kupreanof shall remain a separate municipal entity and shall retain all powers which it had prior to the effective date of this charter. The City of Kupreanof may, to the extent permitted by law, continue to exercise those powers that it exercised

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within its boundaries prior to borough formation even though the borough exercises those same powers on an area wide basis. This article does not exempt persons living within the corporate boundaries of the City of Kupreanof from taxes or charges levied to provide area wide services.

ARTICLE 16

LOCAL IMPROVEMENT

Section 16.01 Purpose and Criteria

Property owners may request the borough to create a local improvement district (LID) to fund a capital improvement project within the district. An LID may be established only if the assembly determines there is a need for the capital improvement and that it will provide a reasonable benefit to property owners in the proposed district and to the borough at large. The assembly may prescribe additional criteria by ordinances. The total cost of the planned capital improvement shall be less than the assessed value of property in the proposed LID owned by individuals or entities that do not object to the creation of the LID.

Section 16.02 Proposals, Protests and Appeals

A. Proposing LID Creation. An LID may only be initiated by a petition of the property owners in the proposed LID. The petition must include a capital improvement plan detailing a carefully prepared and credible estimate of cost of the capital improvement to be borne by the property owners of the district. The capital improvement plan must list the estimated assessment for each lot or parcel of land in the proposed district. The petition must be signed by a number of property owners who collectively would bear more than 50 percent of the projected cost of the assessment for the capital improvement. The assembly shall describe by ordinance other requirements for the petition.

B. Protesting LID creation. If written protests are filed by at least 50 percent of the number of property owners in the proposed district, without regard to property value, the assembly shall not proceed until the protests have been settled to the satisfaction of 66 percent of the property owners in the proposed district. If a property owner has more than one lot or parcel of land within the proposed LID, that property owner may be counted only once for purposes of this protest procedure.

C. Objections and appeals: A decision of the assembly concerning the creation of an LID or the assessment relating to the LID may be appealed to the superior court within 30 days of the date on which the assembly adopts the final assessment roll by resolution or ordinance.

Section 16.03 Establishment

The assembly shall establish an LID by ordinance and shall prescribe by ordinance procedures for the creation of an LID consistent with this charter. An LID may be dissolved by assembly resolution after the assessment of the LID has been paid in full.

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Section 16.04 Finance

A. Assessment. To pay for all or a portion of the project, the borough may levy and collect special assessments upon real property specifically benefited by such improvements. The assessment or levy shall be proportionate to the benefit received from the improvement, as determined by the assembly by ordinance. A special assessment for capital improvements, with interest and collection charges, is a lien on the property assessed, second only to property taxes and prior special assessments.

B. Accounting. An account for each LID shall be created and kept separate from all other borough accounts. Revenues collected within an LID may be applied only to LID costs; LID costs will be paid only from LID accounts.

Section 16.05 All Real Property Liable for Special Assessments

All real property, including that which is exempt from taxation in accordance with law, is liable for the cost of local improvements assessed in accordance with this article unless specifically exempted from special assessments by law. If borough property is benefited by the local improvement, the assembly may make payments in lieu of the amount which would otherwise be assessed against the property.

ARTICLE 17

FRANCHISES

Section 17.01 Public Utility Franchise

The borough may grant a franchise to any person for the use of the streets, alleys, bridges, easements, and other places of the borough for the furnishing of any public utility service to the borough and its inhabitants. Public utility franchises and renewals, amendments, and extensions shall be granted only by contract. Public utility franchises shall include provisions for fixing rates and charges, and may provide for re-adjustments at periodic intervals. With respect to any public utility franchise granted after the effective date of this Charter, whether or not so provided in the granting contract, the borough may:

(1) Terminate the same for the violation of any of its provisions, for the misuse or nonuse thereof, for failure to comply with any provision of contract, or any regulation imposed under authority of this Charter or the municipal code.

(2) Require proper and reasonable extension of plant and the maintenance thereof at the highest practicable standard of efficiency.

(3) Establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates.

(4) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.

(5) Impose other regulations determined by the assembly to be conducive to the health, safety, welfare and convenience of the public.

(6) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges, easements, and public places by the borough and other utilities, insofar as such joint use may be reasonably practicable and upon payment of a reasonable rental; and in the absence of agreement, upon application by

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the public utility, provide for arbitration of the terms and conditions of such joint use and the compensation to be paid.

(7) Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges, easements, and public places, that arise from its use thereof, and to protect and save the borough harmless from all damages arising from such use; and

(8) Require the public utility to file with the clerk reports concerning the utility and its financial operation and status and to file with the manager such drawings and maps of the location and nature of its facilities as the assembly may request.

Section 17.02 Limitations of the Granting of Franchises

No franchise shall be granted by the borough for a term exceeding twenty (20) years and no exclusive franchise shall ever be granted. Each franchise shall include a provision requiring the franchise to take effect within one year after the adoption of the ordinance granting it. An irrevocable franchise and any extensions to or amendments to such a franchise may be granted by the borough only upon approval of at least three-fifths of the votes cast with respect to such proposition at a general or special election in the borough. Such irrevocable franchise shall be subject to the conditions set forth in section 17.01. An irrevocable franchise may be approved by the assembly for referral to the electorate only after a public hearing has been held and after the grantee named in the franchise has filed with the clerk their unconditional acceptance of all terms of franchise. No special election for such purpose may be offered by the assembly, unless the estimated expense of holding such election has first been paid to the the borough by the grantee. In case a balance remains in the amount paid, after the expenses of the election are deducted, such balance shall be repaid to the grantee.

Section 17.03 Procedure for Granting Franchises

Every contract granting a franchise, license, or right to occupy or use streets, alleys, bridges, public places, or easements, shall remain on file with the clerk for public inspection in its final form for at least 30 days before final approval or the approval for referral to the electors of the borough.

Section 17.04 Sale or Assignment of Franchises

The grantee of a franchise may not sell, assign, sublet, or allow another to use the franchise, unless the assembly gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage the property or franchise, nor shall it restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgage or purchaser shall be subject to the terms of the franchise and provisions of this charter and ordinance.

Section 17.05 Plans of Facilities in Streets and Public Places

The assembly may require by ordinance that, as a condition to the placing or installment of facilities or appurtenances, each public utility conducting a business in the borough shall file with the manager a duplicate copy of the layout plans of pipes, conduits, wires, and other facilities and appurtenances which are to be placed on, under, or above the surface of the borough's streets, alleys, bridges, easements, and public places.

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ARTICLE 18

CHARTER AMENDMENT

Section 18.01 By Proposal

Amendments to this Charter may be proposed by:

- A. An ordinance of the assembly containing the full text of the proposed amendment;
- B. Report of an elected charter commission created by assembly ordinance or by initiative ordinance; or
- C. Initiative petition.

Section 18.02 Election

Proposed amendments shall be submitted to the qualified voters of the borough at the next regular or special election occurring more than ninety days after the adoption of the ordinance, the final report of the charter commission or certification of the initiative petition. A notice containing the full text of each proposed amendment shall be published.

Section 18.03 Effective Date

If a majority of the qualified voters voting on a proposed amendment approve the amendment, it becomes effective at the time fixed therein, or if no time is so fixed, thirty days after the certification of the election. If more than one amendment is proposed, they must be submitted in a manner that the voters may vote on them separately. However, amendments which are so interrelated that they must be approved or rejected together, may be submitted as one amendment.

Section 18.04 New Charter

A new charter may be proposed and approved in lieu of this Charter in the same manner as an amendment to this Charter may be proposed and approved. Notice of the new charter shall be published and copies of the new Charter made available to the public.

ARTICLE 19

GENERAL PROVISIONS

Section 19.01 Records to be Public

All records owned by the borough, except personal hospital records and tax records which reflect the volume of business done by or the income of a taxpayer shall be public records unless otherwise provided by law. The original records shall be kept in borough offices for purposes of safe keeping and may be removed only by assembly action. They shall be available at borough offices for inspection, copying, or reproduction at

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reasonable times. Such records, copies duly certified by the clerk, shall be prima facie evidence of their contents.

Section 19.02 Saturday, Sundays and Holidays

Except as otherwise provided in this Charter, whenever the date fixed by ordinance or this Charter for doing or completion of any act falls on a Saturday, Sunday or legal holiday, such act shall be done or completed on the next succeeding business day.

Section 19.03 Personal Financial Interest and Nepotism

A. Prohibition. An elected borough officer may not participate in any official action in which the officer or a member of the officer's household has a substantial financial interest unless after disclosure of the interest the officer's participation is approved in a public meeting by the majority of the assembly. Borough officials shall publicly disclose their substantial financial interests as required by law.

B. Punishment. Any borough officer, employee or elected official who conceals a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit office or employment. Violation of this section with the knowledge, express or implied, of the person contracting with or making a sale to the borough renders the contract or sale to the borough voidable by the borough manager or the assembly.

C. The assembly by ordinance shall adopt procedures dealing with nepotism and conflict of interest on the part of borough employees.

Section 19.04 Surety Bonds

The manager, the clerk, the finance officer and such other officers and employees as the assembly may designate before entering upon their duties shall be bonded by individual or group bonds for the faithful performance of their respective duties payable to the borough in such form and in such amounts as the assembly may prescribe with a surety company authorized to operate within the state. The borough shall pay the premiums on such bonds.

Section 19.05 Oath of Office

Every elected official of the borough before entering upon the officer's duties shall take the oath or affirmation required by section 5 of Article XII, Constitution of the State of Alaska. The assembly may require designated employees to take the oath before entering upon their employment. Oaths of office shall be filed with the clerk.

Section 19.06 Ordinances and Resolutions

Except as otherwise provided by this Charter, the ordinances and resolutions of the City of Petersburg, which will be dissolved at borough formation approval, shall continue in full force and effect within the former city limits until expressly reaffirmed, revised or repealed by the assembly.

Section 19.07 Pre-Borough Formation Assets, Liabilities, Sales Taxes, Reserves and Franchises

A. Assets and Liabilities. The borough succeeds to all the assets and liabilities of

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the former City of Petersburg. Bonded indebtedness incurred before borough formation remains the obligation of the area that was subject to the debt, unless the asset for which the bonded indebtedness was incurred is used for an area wide purpose or is used for the benefit of a larger area, in which case the obligation becomes the obligation of the areas benefited by the asset's use. The obligation to repay revenue bonds or other indebtedness issued by the City of Petersburg utilities or other enterprise incurred prior to the enactment of this Charter shall not be affected by this charter.

B. Sales and Use Taxes. All sales and use taxes levied within the former City of Petersburg shall remain in effect until changed as provided in this Charter. Within one year from the first election under this Charter, the assembly must review the levy of sales and use taxes and determine whether they should be applied on an area wide basis throughout the borough, with the revenues from the area wide levy being appropriated for the borough.

C. Reserves. Any pledged reserve accounts of the prior City of Petersburg shall remain committed to the purposes for which they were originally dedicated.

D. Franchises. All existing franchises of the prior City of Petersburg shall continue after ratification of this Charter until they expire, are extended, renewed or revoked by the borough assembly.

Section 19.08 Assembly Salaries, Borough Employment, Boards, Committees and Commissions

A. Salaries. Until changed as provided in Section 2.06, the salaries and expenses of the mayor and assembly members will be the same as paid to the mayor and council members of the former City of Petersburg.

B. Employees. Except as provided in Section 4.02A, all employees of the former City of Petersburg shall be borough employees and continue in employment under the same terms and conditions of the policies and agreements of the prior City of Petersburg until the assembly provides otherwise.

C. Except for those provided for by this Charter, all appointed and elected advisory boards, committees, and commissions in effect at the time of this Charter shall be dissolved one year after the effective date of this Charter unless specifically continued by ordinance.

Section 19.09 Delivery of Office to Successor

Whenever an officer or employee leaves an office or employment for any reason, they shall deliver to their successor all property of the borough which is in their custody, possession or control, such as books, working papers, moneys and effects.

Section 19.10 Continuance of Actions

The adoption of this Charter shall not abate or otherwise affect any action, claim or proceeding, civil or criminal by or against the former City of Petersburg or the local government of the City of Kupreanof and which had accrued at the time of the effective date of this Charter. All applications, petitions, hearings, and other proceedings pending on the effective date before the former City of Petersburg shall be continued before the borough.

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Section 19.11 Transition Plan

Other provisions concerning transition shall be governed by the transition plan in the borough petition, as approved by the Local Boundary Commission and any changes made thereto by the assembly.

Section 19.12 Penalties

The assembly, by ordinance, may establish penalties for violation of specific provisions of this Charter or laws or regulations of the borough not to exceed a fine of one thousand dollars or imprisonment of not more than thirty (30) days, or both.

Section 19.13 Severability Clause

- A. If a court of competent jurisdiction should hold any section or part of this Charter invalid, that holding will not affect the remainder of this Charter nor the context in which the section or part held invalid may appear, except to the extent that another part of the Charter may be inseparably connected in meaning and effect with that section or part.
- B. If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the state constitution or law renders a part of this Charter invalid or inapplicable, the assembly by ordinance may take appropriate action as will enable the borough government to function properly.

Section 19.14 Effective Date

If the voters approve the formation of the Petersburg Borough, this Charter becomes effective on the date the borough designation becomes effective.

Section 19.15 Words and Phrases; Meaning of "Including"

- A. Words and phrases will be construed according to the rules of grammar and according to their common and approved usage. Technical words and phrases, and those that have acquired a peculiar and appropriate meaning, whether by legislative definition or otherwise, are constructed according to the peculiar and appropriate meaning.
- B. When the words "includes" or "including" are used in this Charter, they are construed as though followed by the phrase "but not limited to."

Section 19.16 Tense, Number and Gender

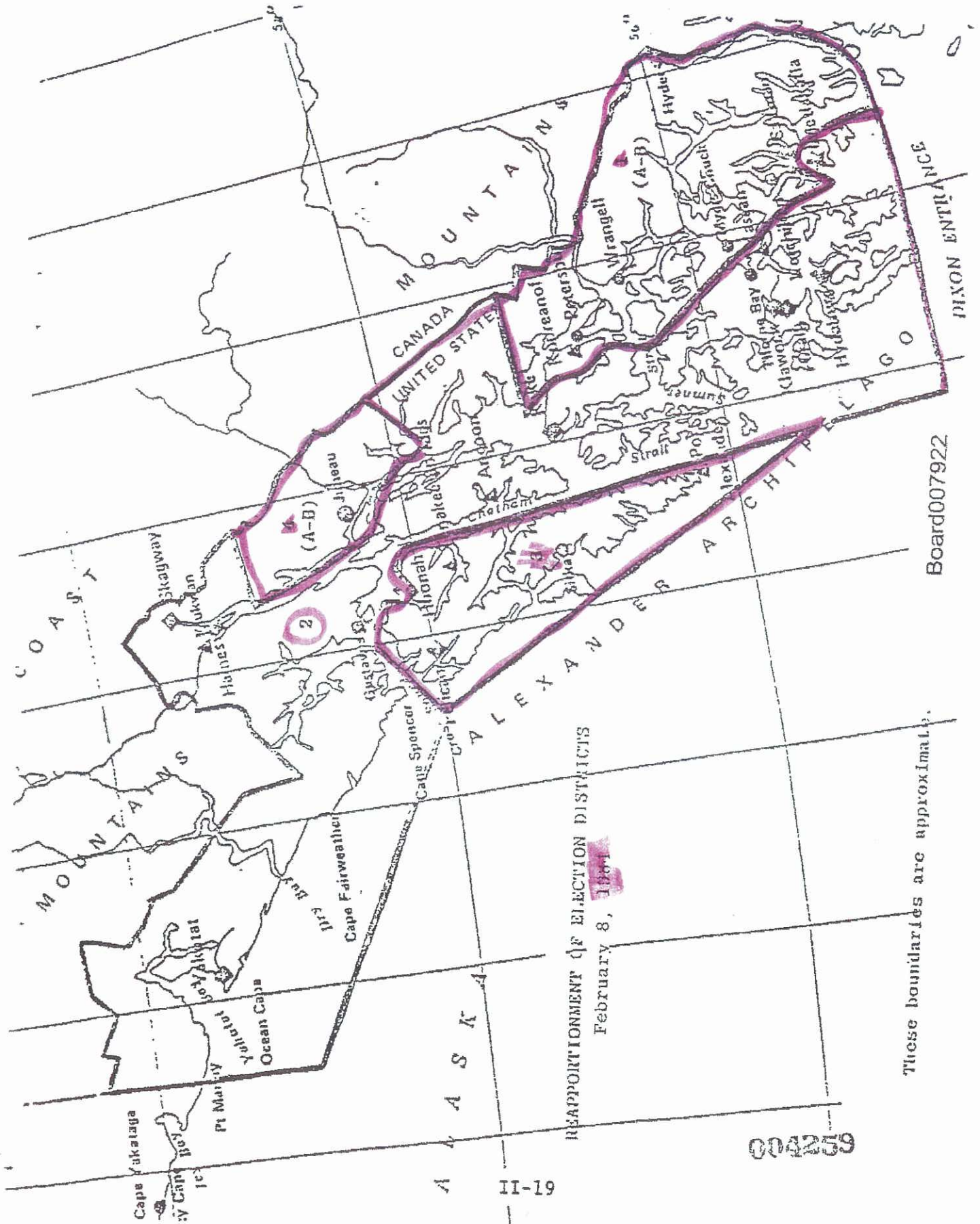
- A. Words in the present tense include the past and future tenses and words in the future tense include the present tense.
- B. Words in the singular number include the plural and words in the plural number include the singular.
- C. Words of any gender may, when the sense so indicates, refer to any other gender.

Section 19.17 Non-Discrimination

A person may not be appointed to or removed from borough office or in any way favored or discriminated against with respect to a borough position or borough employment because of a person's race, color, sex, creed, religious beliefs, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

ATTACHMENT 4

Reapportionment of Election Districts 1984



These boundaries are approximate.

Board 007922

004259

ATTACHMENT 5

Proclamation House Districts

Southwest



Water B

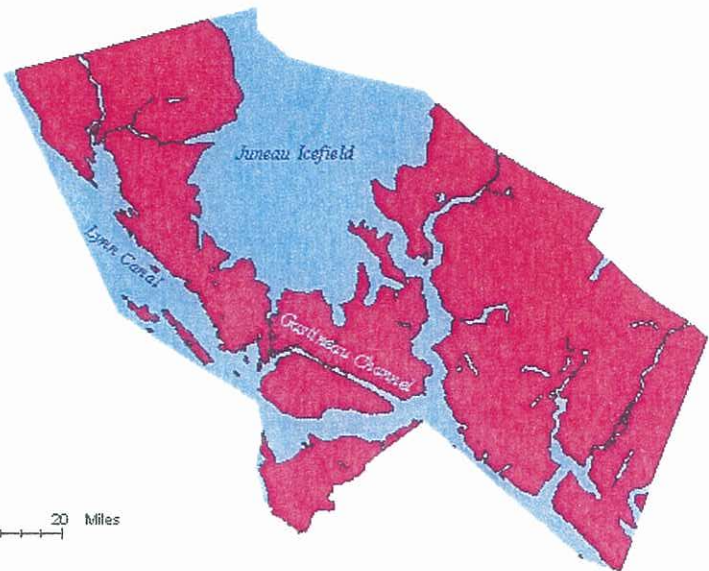


ATTACHMENT 6

Federal Census Districts



Juneau Borough



Click on the place name on the map or on the alpha list below to view a 2000 Census demographic profile.

Choose a Place Go

Choose a different Borough or Census Area from the dropdown below.

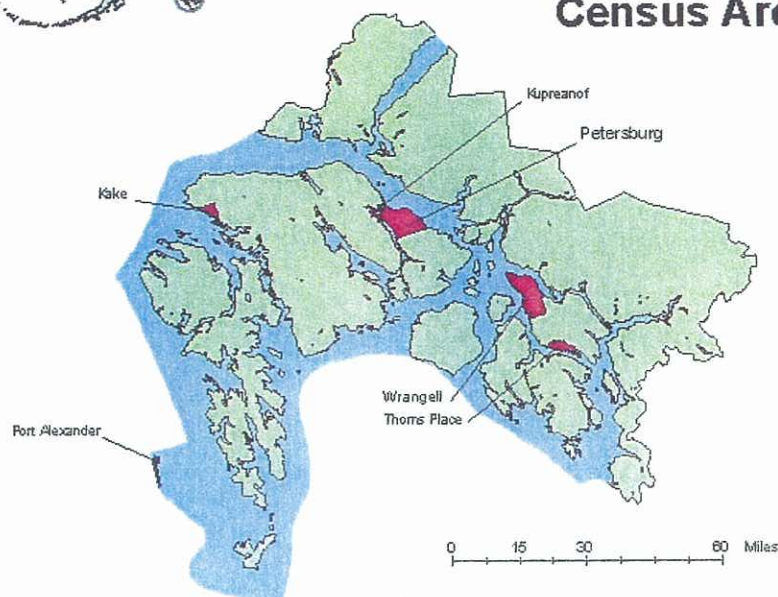
Borough/Census Area Go

Profile [Juneau](#)

Source: Alaska Department of Labor And Workforce Development, Research and Analysis and US Census Bureau, 2000 Tigerline files.



Wrangell-Petersburg Census Area



Source: Alaska Department of Labor And Workforce Development, Research and Analysis and US Census Bureau, 2000 Tigerline files.

☐ Click on the place name on the map or on the alpha list below to view a 2000 Census demographic profile.

Choose a Place Go

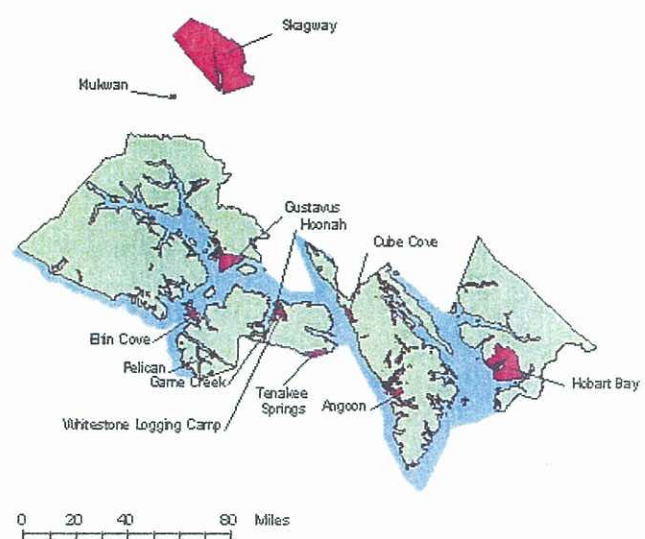
☐ Choose a different Borough or Census Area from the dropdown below.

Borough/Census Area Go

☐ Profile [Wrangell-Petersburg](#)



Skagway-Hoonah-Angoon Census Area



Source: Alaska Department of Labor And Workforce Development, Research and Analysis and US Census Bureau, 2000 Tigerline files.

Click on the place name on the map or on the alpha list below to view a 2000 Census demographic profile.

Choose a Place Go

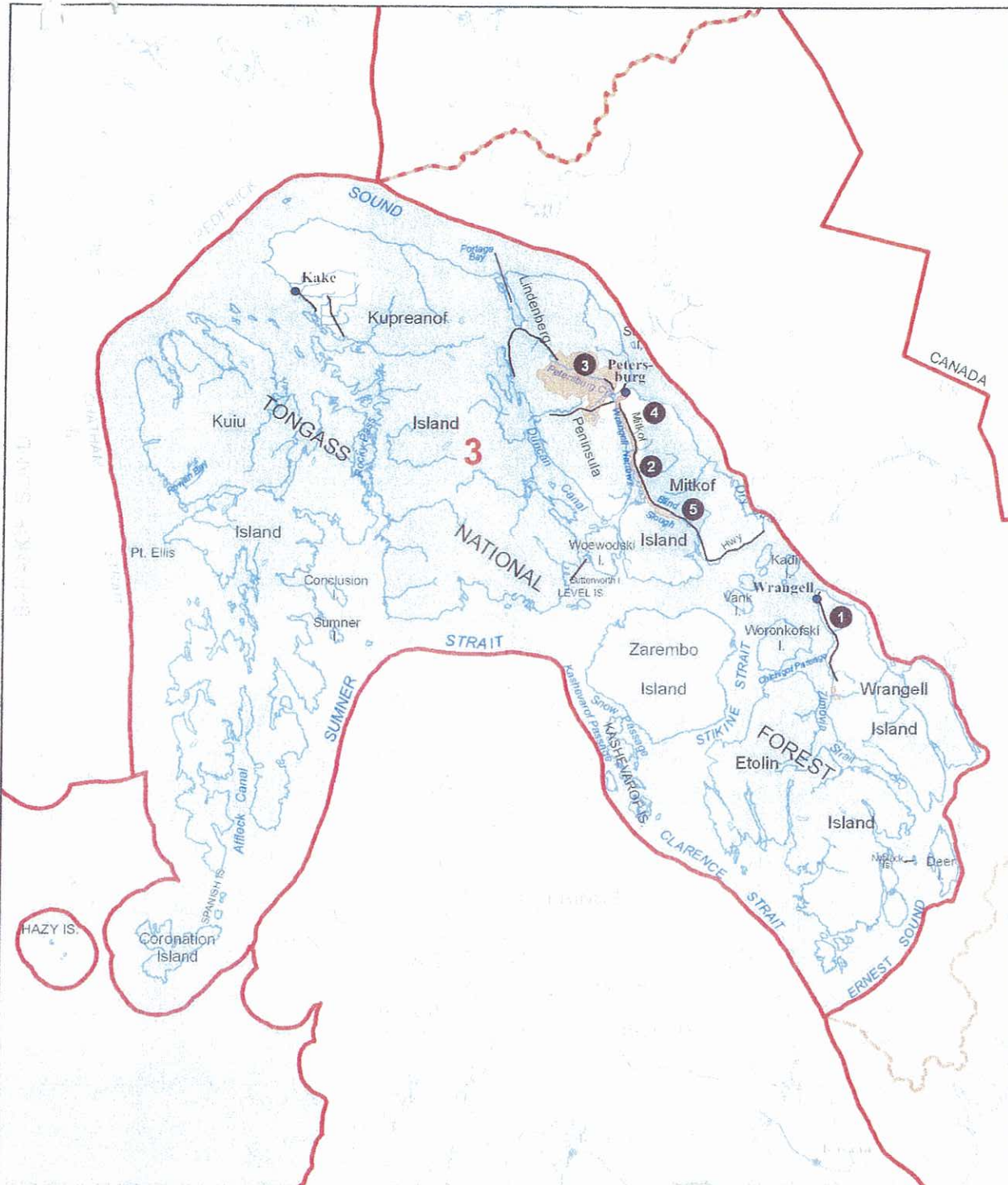
Choose a different Borough or Census Area from the dropdown below.

Borough/Census Area Go

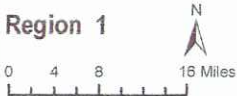
Profile [Skagway-Hoonah-Angoon](#)

ATTACHMENT 7

Game Management Units



Unit 3 Petersburg - Wrangell



Game Management Units / Special Management Areas

- | | | |
|--|--|---------------------|
| Closed Areas | Other State Lands | Unit Boundaries |
| Controlled Use Areas | National Parks | Unit Sub-Boundaries |
| Management Areas | National Preserves & Other Federal Lands | Roads |
| State Refuges, Sanctuaries, & Critical Habitat Areas | | Railroads |

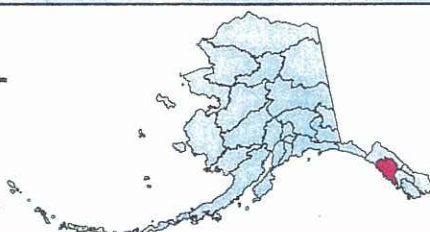


Unit 4

Admiralty - Baranof -
Chichagof Islands

Region 1

0 5 10 20 Miles



Game Management Units / Special Management Areas

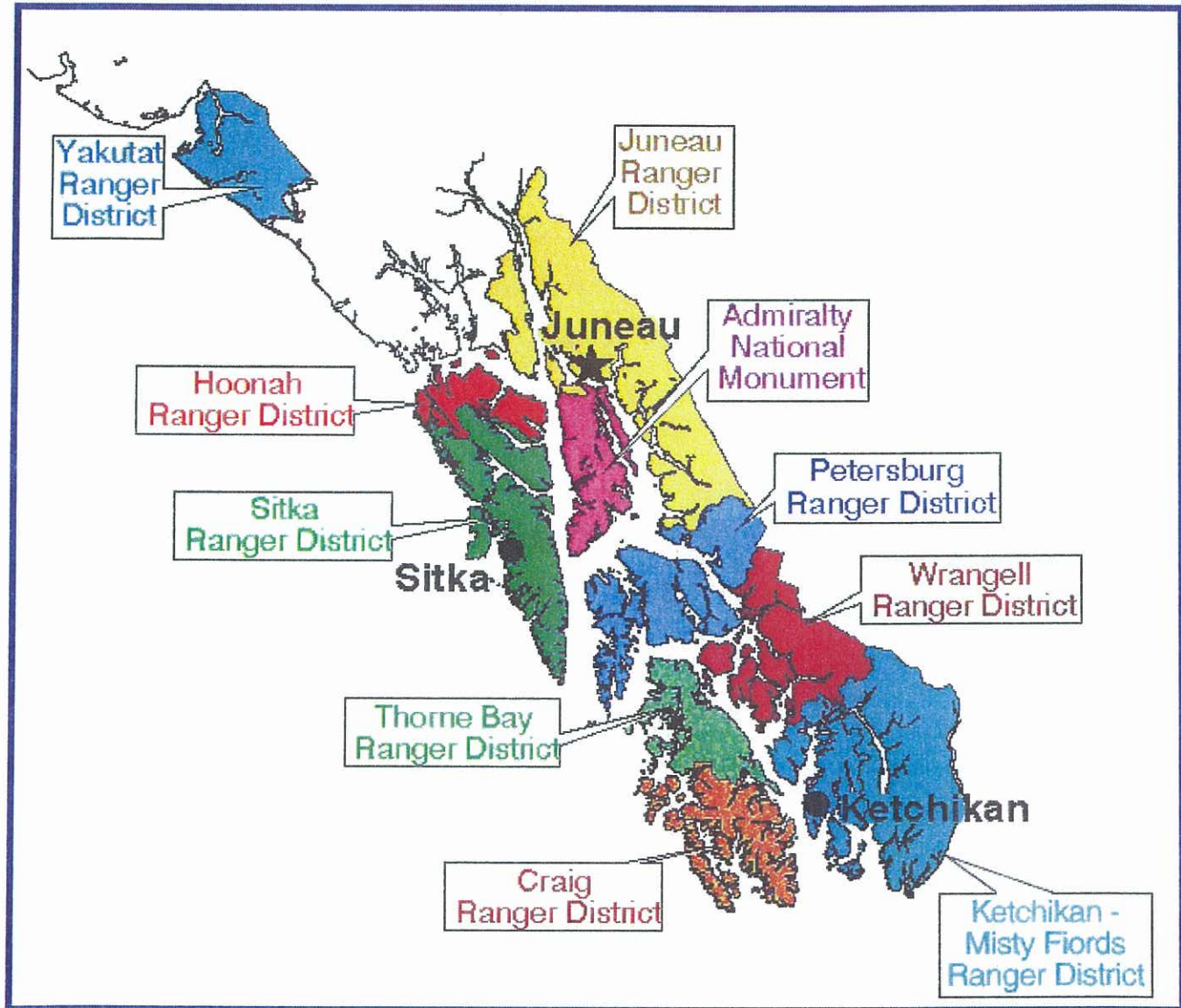
- | | | |
|--|--|---------------------|
| Closed Areas | Other State Lands | Unit Boundaries |
| Controlled Use Areas | National Parks | Unit Sub-Boundaries |
| Management Areas | National Preserves & Other Federal Lands | Roads |
| State Refuges, Sanctuaries, & Critical Habitat Areas | | Railroads |

ATTACHMENT 8

Forest Service Tongass Ranger Districts



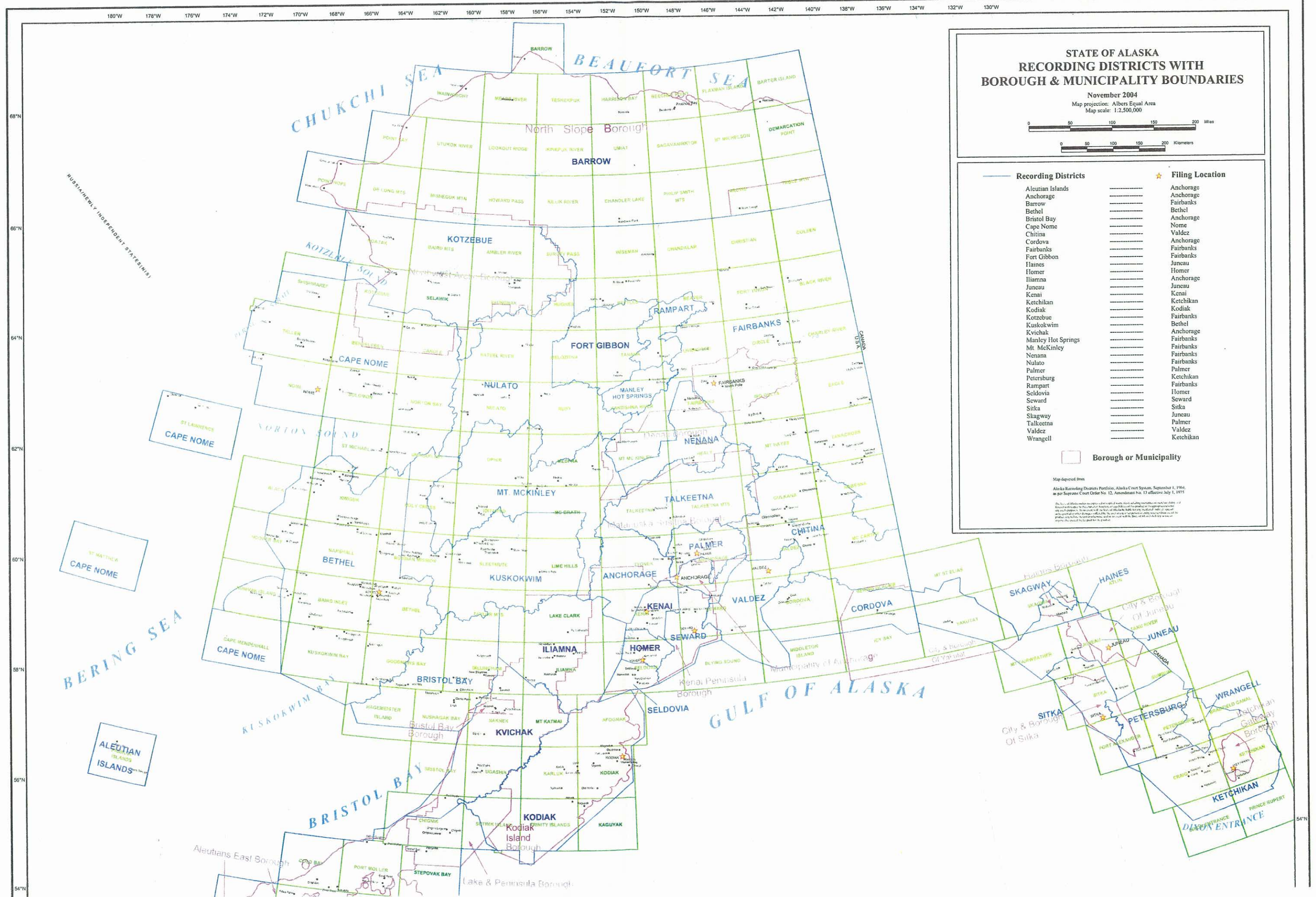
Map of Districts



[Home](#) [Tongass Maps](#) [Office Directory](#)

ATTACHMENT 9

Alaska Recording Districts



ATTACHMENT 10

Juneau Mining District

Special Publication

Bureau of Mines
Mineral Investigations in the
Juneau Mining District, Alaska,
1984–1988

Volume 2.—Detailed Mine, Prospect, and
Mineral Occurrence Descriptions

Section E
Coast Range Subarea

By Albert H. Clough

UNITED STATES DEPARTMENT OF THE INTERIOR
Manuel Lujan, Jr., Secretary

BUREAU OF MINES
T S Ary, Director

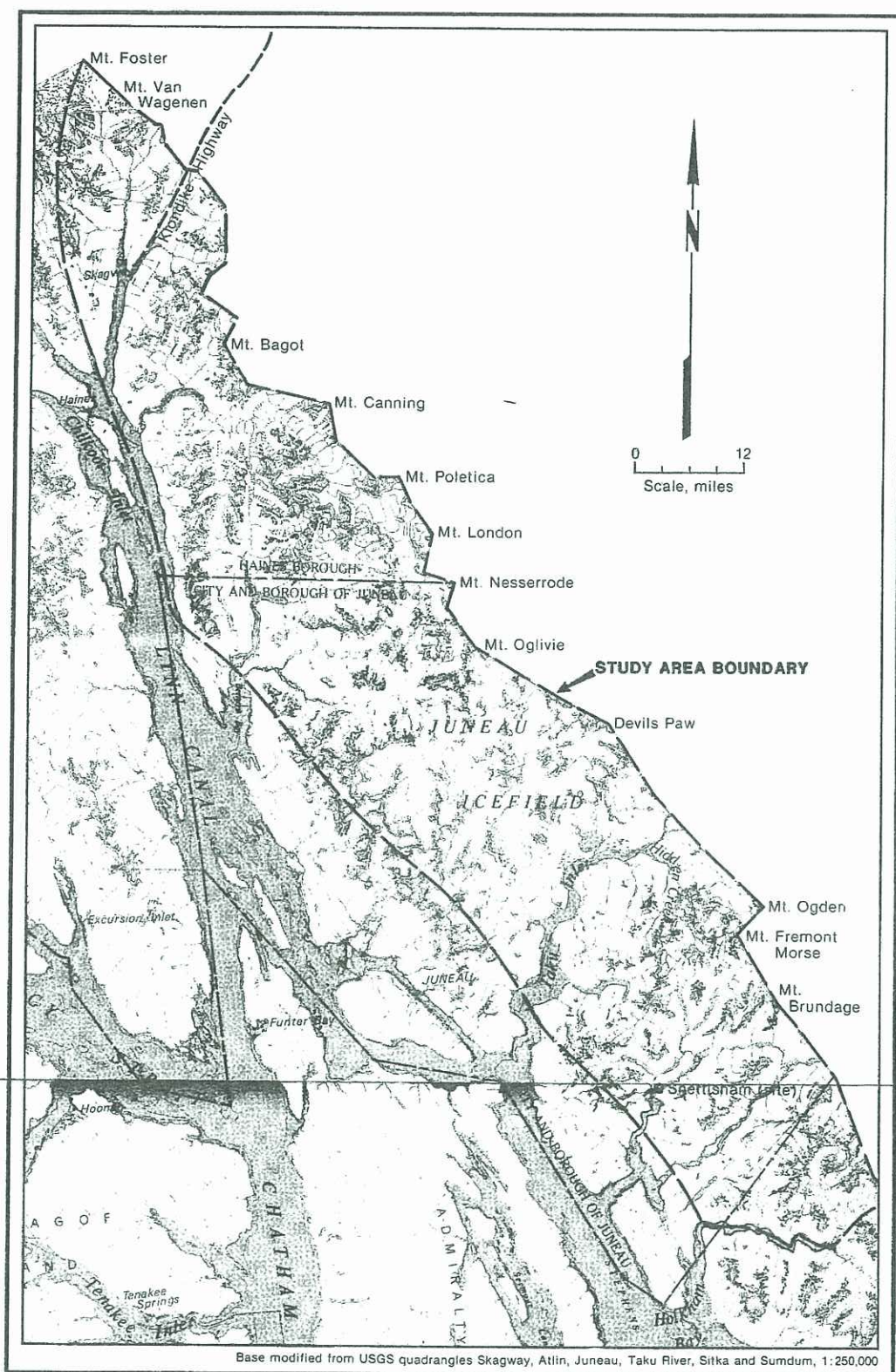
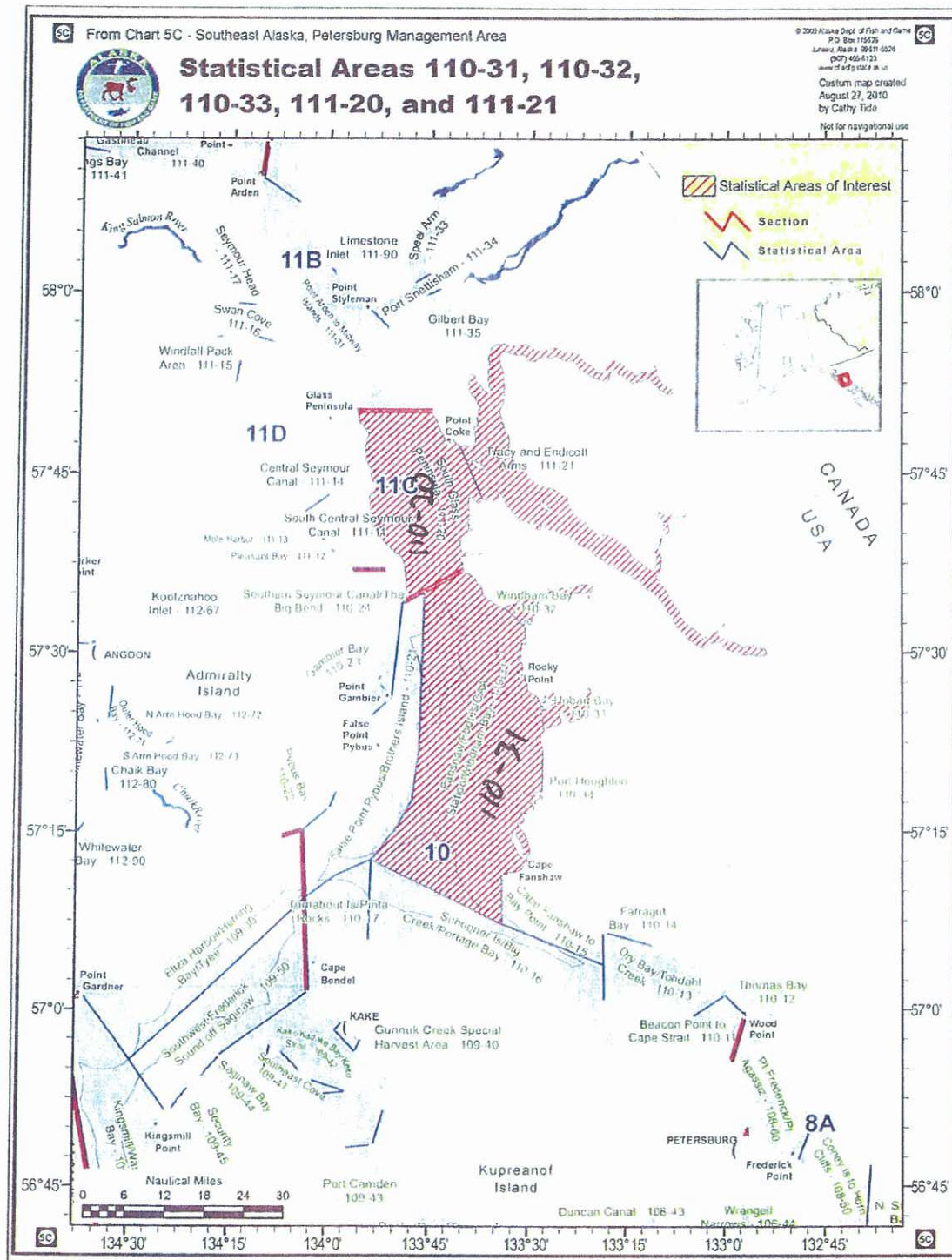


Figure E-1. — Map showing location of the Coast Range subarea of the Juneau Mining District.

ATTACHMENT 11

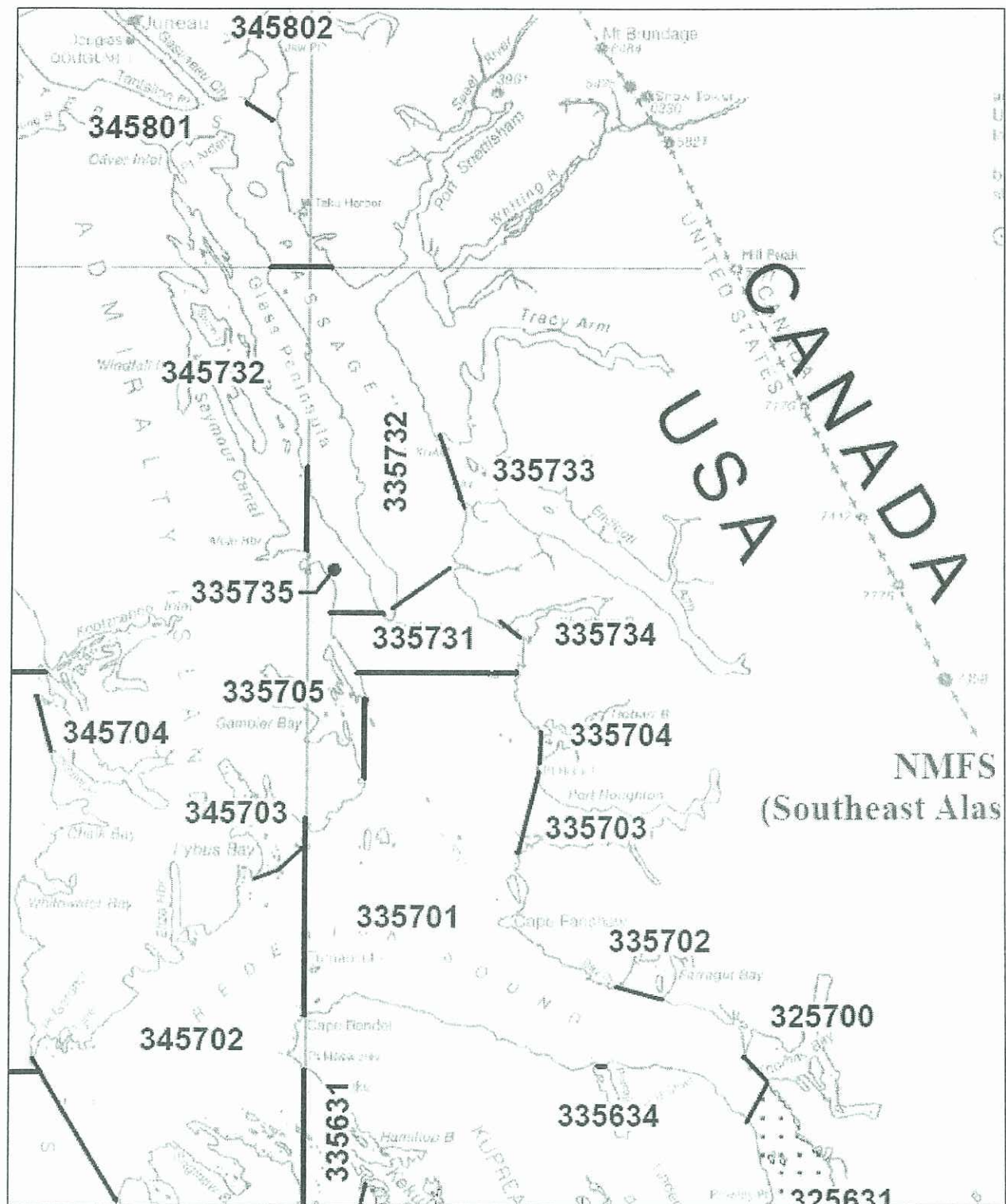
ADF&G Petersburg Management Area Statistical Districts

EXHIBIT 3



ATTACHMENT 12

ADF&G Groundfish Districts



Extracted from ADF&G Groundfish Statistical Area Chart – Chart 5 Southeast Alaska
http://www.adfg.alaska.gov/static/fishing/PDFs/commercial/chart05_seak_gf.pdf

ATTACHMENT 13

ADF&G Fisheries Statistical Districts

Table 1
Earnings and Harvests (Whole Pounds) by Residency of Permit Holders, for
Select ADFG Statistical Areas

Year	City	Permits	Total Earnings	Total Pounds
2005	Juneau	18	\$217,400	71,244
	Petersburg	46	\$675,646	355,469
	Other	9	\$82,223	186,076
	Year Totals	73	\$975,269	612,789
2006	Juneau	13	\$172,566	53,002
	Petersburg	50	\$568,259	451,329
	Other	5	\$100,700	36,447
	Year Totals	68	\$841,525	540,778
2007	Juneau	14	\$124,374	41,522
	Petersburg	43	\$537,035	231,019
	Other	23	\$130,604	155,844
	Year Totals	80	\$792,013	428,385
2008	Juneau	13	\$127,299	60,965
	Petersburg	34	\$596,092	453,063
	Other	26	\$283,689	533,407
	Year Totals	73	\$1,007,079	1,047,435
2009	Juneau	12	\$79,139	42,386
	Petersburg	70	\$679,764	978,736
	Other	35	\$216,679	456,579
	Year Totals	117	\$975,582	1,477,701
2010	Juneau	19	\$138,748	67,465
	Petersburg	73	\$890,802	1,044,549
	Other	29	\$293,885	714,377
	Year Totals	121	\$1,323,435	1,826,391

Notes:

- 1) Harvests are from the following statistical areas:
 (shellfish/groundfish) 335731, 335733, 335734, 335703, 335704
 (salmon/herring) 111-20, 111-21, 110-32, 110-33, 110-34
- 2) Estimates are for commercial catches only. They exclude harvests from test fishing, confiscated catch, personal use, discards, and other harvests taken but not sold.
- 3) Earnings estimates for 2010 are based upon preliminary data.
- 4) Residency is based upon the address of the permit holder at the end of each respective year.
- 5) Source: CFEC 10/21/11

Table 2

Earnings and Harvests (Whole Pounds) by Residency of Permit Holders, for Select ADFG
Statistical Areas Corresponding to Fanshaw /Foot Is / CAA Station / Windham Bay.

Statistical Area	Year	City	Permits	Earnings	Pounds
335732 (Mostly in existing Juneau Borough, partially in new area)	2005	Juneau	6	\$47,110	15,257
		Petersburg	7	\$101,926	33,570
		Other	6	\$86,676	28,100
		Year Totals	19	\$235,712	76,927
	2006	Juneau	11	\$81,836	22,388
		Petersburg	9	\$80,544	21,957
		Other	4	\$98,131	26,799
		Year Totals	24	\$260,511	71,144
	2007	Juneau	12	\$173,273	40,299
		Petersburg	7	\$120,850	28,779
		Other	6	\$118,552	26,441
		Year Totals	25	\$412,675	95,519
	2008	Juneau	15	\$347,339	80,242
		Petersburg	8	\$136,375	32,422
		Other	5	\$118,917	27,447
		Year Totals	28	\$602,631	140,111
	2009	Juneau	9	\$89,129	35,519
		Petersburg	5	\$33,058	13,460
		Other	5	\$69,096	27,518
		Year Totals	19	\$191,284	76,497
	2010	Juneau	8	\$70,041	18,884
		Petersburg	5	\$63,147	17,277
		Other	*	*	*
		Year Totals	*	*	*
110-31 (Mostly in non- contested Petersburg Borough, partially in new area)	2005	Juneau	9	\$17,665	33,769
		Petersburg	82	\$551,286	1,757,940
		Other	35	\$76,052	328,702
		Year Totals	126	\$645,003	2,120,411
	2006	Juneau	*	*	*
		Petersburg	47	\$301,619	385,979
		Other	*	*	*
		Year Totals	63	\$381,999	476,347
	2007	Juneau	3	\$17,217	6,386
		Petersburg	43	\$370,637	210,493
		Other	6	\$28,640	7,836
		Year Totals	52	\$416,494	224,715
	2008	Juneau	7	\$42,097	39,917
		Petersburg	67	\$389,334	269,050
		Other	50	\$230,465	405,670
		Year Totals	124	\$661,896	714,637
	2009	Juneau	5	\$16,039	14,825
		Petersburg	75	\$489,959	922,222
		Other	51	\$215,658	492,385
		Year Totals	131	\$721,656	1,429,432
	2010	Juneau	7	\$29,802	52,844
		Petersburg	85	\$884,697	2,128,740
		Other	44	\$356,857	1,183,943
		Year Totals	136	\$1,271,356	3,365,527

Table 2
Earnings and Harvests (Whole Pounds) by Residency of Permit Holders, for Select ADFG
Statistical Areas Corresponding to Fanshaw /Foot Is / CAA Station / Windham Bay.

Statistical Area	Year	City	Permits	Earnings	Pounds
335701 (50% contested)	2005	Juneau	8	\$97,389	37,023
		Petersburg	120	\$2,431,827	851,607
		Other	29	\$562,837	260,008
		Year Totals	157	\$3,092,054	1,148,638
	2006	Juneau	7	\$64,195	39,802
		Petersburg	102	\$2,348,470	730,246
		Other	22	\$463,276	126,387
		Year Totals	131	\$2,875,941	896,435
	2007	Juneau	8	\$36,985	13,573
		Petersburg	108	\$2,511,577	690,358
		Other	33	\$616,346	163,521
		Year Totals	149	\$3,164,908	867,452
	2008	Juneau	*	*	*
		Petersburg	110	\$2,438,900	609,849
		Other	*	*	*
		Year Totals	142	\$3,006,321	816,988
	2009	Juneau	4	\$22,462	9,926
		Petersburg	97	\$1,413,700	609,661
		Other	25	\$325,411	179,131
		Year Totals	126	\$1,761,573	798,718
	2010	Juneau	*	*	*
		Petersburg	88	\$1,388,433	409,082
		Other	*	*	*
		Year Totals	113	\$1,855,655	599,739

- Notes: 1) Estimates are for commercial catches only. They exclude harvests from test fishing, confiscated catch, personal use, discards, and other harvests taken but not sold.
2) Earnings estimates for 2010 are based upon preliminary data.
3) Residency is based upon the address of the permit holder at the end of each respective year.
4) Asterisks are used to redact confidential data (less than 4 permits), or to prevent solving for confidential data.
5) Source: CFEC 10/21/11

Table 3

Location of Processors Who Purchased Finfish and Shellfish That Were Harvested From Select ADFG Statistical Areas; Number of Processors, Ex-Vessel Value, and Total Pounds of the Selected Harvest.

Year	Processor Port	Number of Processors	Ex-Vessel Value	Total Pounds
2005	Juneau	6	\$187,760	56,043
	Petersburg	7	\$734,772	542,622
	Other	6	\$52,737	14,124
	Year Totals	19	\$975,269	612,789
2006	Juneau	8	\$248,359	68,131
	Petersburg	6	\$592,782	471,860
	Other	1	\$384	787
	Year Totals	15	\$841,525	540,778
2007	Juneau	7	\$156,841	39,297
	Petersburg	7	\$528,231	250,289
	Other	11	\$106,940	138,799
	Year Totals	25	\$792,013	428,385
2008	Juneau	6	\$157,113	37,846
	Petersburg	7	\$603,880	497,691
	Other	5	\$246,086	511,898
	Year Totals	18	\$1,007,079	1,047,435
2009	Juneau	5	\$84,729	33,730
	Petersburg	7	\$594,982	856,087
	Other	7	\$295,871	587,884
	Year Totals	19	\$975,582	1,477,701
2010	Juneau	6	\$145,220	40,079
	Petersburg	8	\$1,041,236	1,471,734
	Other	7	\$136,979	314,578
	Year Totals	21	\$1,323,435	1,826,391

Notes:

- 1) Harvests are from the following statistical areas:
 (shellfish/groundfish) 335731, 335733, 335734, 335703, 335704
 (salmon/herring) 111-20, 111-21, 110-32, 110-33, 110-34
- 2) Estimates are for commercial catches only. They exclude harvests from test fishing, confiscated catch, personal use, discards, and other harvests taken but not sold.
- 3) Ex-vessel value estimates for 2010 are based upon preliminary data.
- 4) Processor location is based upon fish ticket records and ADFG processor Intent to Operate forms.
- 5) Count of processors includes catcher-sellers (dockside and/or direct market sellers).
- 6) Source: CFEC 10/21/11

Table 4

Location of Processors Who Purchased Finfish and Shellfish That Were Harvested From ADFG Statistical Areas 335732, 335701, and 110-31; Number of Processors, Ex-Vessel Value, and Total Pounds of the Selected Harvest.

Year	Processor Port	Number of Processors	Ex-Vessel Value	Total Pounds
2005	Juneau	4	\$343,353	110,274
	Petersburg	9	\$3,461,137	2,808,313
	Other	8	\$168,278	427,389
	Year Totals	21	\$3,972,768	3,345,976
2006	Juneau	6	\$390,585	105,498
	Petersburg	7	\$2,952,394	1,200,442
	Other	10	\$175,473	137,986
	Year Totals	23	\$3,518,451	1,443,926
2007	Juneau	5	\$480,610	116,568
	Petersburg	8	\$3,259,493	959,284
	Other	10	\$253,974	111,834
	Year Totals	23	\$3,994,077	1,187,686
2008	Juneau	8	\$718,527	185,043
	Petersburg	5	\$3,228,009	987,587
	Other	12	\$324,312	499,106
	Year Totals	25	\$4,270,847	1,671,736
2009	Juneau	6	\$302,987	134,964
	Petersburg	8	\$2,091,107	1,537,904
	Other	10	\$280,419	631,779
	Year Totals	24	\$2,674,513	2,304,647
2010	Juneau	6	\$309,020	78,439
	Petersburg	7	\$2,570,574	2,633,906
	Other	10	\$414,158	1,298,218
	Year Totals	23	\$3,293,752	4,010,563

Notes:

- 1) Harvests are from the following statistical areas:
(shellfish/groundfish) 335732, 335701
(salmon/herring) 110-31
- 2) Estimates are for commercial catches only. They exclude harvests from test fishing, confiscated catch, personal use, discards, and other harvests taken but not sold.
- 3) Ex-vessel value estimates for 2010 are based upon preliminary data.
- 4) Processor location is based upon fish ticket records and ADFG processor Intent to Operate forms.
- 5) Count of processors includes catcher-sellers (dockside and/or direct market sellers).
- 6) Source: CFEC 10/27/11

ATTACHMENT 14

Information from Small Operators Listed by JEDC

Information from Small Operators Listed by JEDC

Operator	Contact Information	Information	Connections with Contested Area
Allen Marine Tours	11/10/2011 conv. with Jamey Cagle (907) 747-8100; 11/10/2011 conv. with attorney Jim Whipple (206) 624-2650	Uses vessels of various sizes to transport passengers into Tracy Arm, from cruise ships in Holkham Bay or from Juneau, with a few trips to Endicott Arm when Tracy Arm is too packed with ice. Started up a weekly trip from Juneau to Hobart Bay in 2011, of small but unknown volume. Through its legal counsel, the company declined to release information regarding its passenger volumes or annual revenues in the contested area, nor to confirm the accuracy of the total visitors and estimated revenue stated on JEDC table, and denied that this information came from the company.	Sitka-based company conducting day trips from Juneau or Holkham Bay into Tracy Arm, a few into Endicott Arm, with one weekly trip to Hobart Bay.
Adventure Bound	10/31/2011 conv. with Winona Webber (907) 463-2509	CBJ information erroneous; must have been extrapolated from heavy business in July. Only about <u>3,000</u> actual annual passenger traffic to the area, rather than 6,210. Fair estimate of revenue (based upon \$152.25 fare for adults, \$96.43 fare for children and 1/3 of fares discounted by \$10.00) is <u>\$390,000</u> , not \$931,500. All of tour destinations are Tracy Arm, and not areas south of it, with rare exception of trip into Endicott Arm.	Smaller than represented by CBJ; connections nearly all with only Tracy Arm.
Lindblad Expeditions	10/31/2011 conv. with Mark Capalletti 1 (800) Expedition	Trips tour Southeast Alaska starting in Sitka and terminating in Juneau, or vice versa, with stopover in Petersburg. Equal amounts of time spent in Juneau and in Petersburg. Some stores provisioned in Juneau, with fresh seafood, primarily crab, taken on in presence of passengers at boat harbor in Petersburg, passengers	Petersburg's connection with these tours to contested area is at least as strong as Juneau's.

Operator	Contact Information	Information	Connections with Contested Area
Lindblad Expeditions cont.		tour Petersburg on bicycles, take a bog tour, and/or hike the Petersburg Lake trail. One day out of 8-day tour spent in Tracy Arm, not in other contested area south of Tracy Arm.	
Inner Sea Discoveries	11/8/2011 conv. with Dani Barney (206) 838-9481	Seattle-based tour company operating vessels of various sizes on Southeast Alaska cruises with tours originating in Ketchikan, Juneau, Sitka and Seattle, with stops at Juneau and other ports. Ordinarily spend one day in either Tracy Arm or Endicott Arm during each 7 day trip. Difficult to determine total visitors per year and estimated revenue associated with portion of trips going into Tracy or Endicott Arm.	Seattle company conducts week long trips in which one day out of 7 day trip is usually spent in Tracy or Endicott Arm, with itinerary going through Juneau, Ketchikan, Sitka and other ports.
Fantasy Cruises	10/11/31 conv. with Brenda Blyth 1 (800) 234-3861	Primary cruises are from Petersburg to Sitka or the reverse; season-end trip is from Petersburg to Seattle. Passengers arrive or depart from Petersburg airport, not Juneau. Passengers spend 2 nights in Petersburg, but only about 4-5 hours in Juneau during stopover there.	Petersburg has stronger connection than Juneau with these cruises into the contested area.
Alaskan Legend Yacht Charters	11/8/2011 conv. with Dennis Rogers, Manager (907) 518-0505	Operates 100% out of Petersburg; all trips based there. 7-8 day trips in which 2-3 days are spent in the contested area. Passengers originate in Petersburg, except one research charter where clients were picked up in Juneau. 6 passengers max. with approximately \$245,000 in estimated revenues associated with trips to contested area.	Connected with Petersburg, not Juneau
All Aboard Yacht Charters	11/3/2011 conv. with company representative (360) 898-7300	Spends about half the total trip time in the contested area. Usually stops in Petersburg during transit between Juneau and Ketchikan.	Juneau has greater connections, but Petersburg has significant connections with these trips.

Operator	Contact Information	Information	Connections with Contested Area
Alaska Quest Charters	11/3/2011 conv. with Tom Satre (907) 209-3560	Spends about 2 days out of 7-8 day trip in contested area. Brings a total of 40 passengers to this area per year, rather than 55. This represents a maximum revenue of <u>\$40,000</u> per year attributable to trips into the contested area, rather than \$192,500. Supports inclusion of area in Petersburg Borough rather than CBJ	Connections with Juneau, but annual revenues grossly overstated by CBJ
Parker Guide Service	11/4/2011 conv. with Anne-Marie Parker (907) 747-6026	Sitka-based guiding operation. 16 persons, including 12 goat hunters fly through Juneau to vessel anchored in subject area. Also takes approximately 34 passengers into Tracy Arm on boat, as part of 5-7 day trips terminating in Sitka.	Overall connections with Juneau are minimal as vessel and business operated out of Sitka.
Ocean Point Alaska	11/3/2011 conv. with Keegan McCarthy (907) 723-3006	75% of clients going into this area arrive and depart through the Petersburg airport, and fly to/from Petersburg to the guide's vessel. In these cases, provisioning is from Petersburg. In the other 25%, the clients arrive through Juneau, and are provisioned from Juneau. Total from both cities is about 20 hunting clients and sightseers per year, representing a total revenue of \$110,000 attributable to visits to the contested area, with Petersburg's connections outweighing Juneau's by 3:1 ratio.	Guided hunting trips into contested area have a stronger connection with Petersburg than Juneau.
Glacier Guides, Inc.	11/3/2011 conv. with Zach Decker (907) 697-2190	Gustavus-based hunting guide operation concentrating primarily on Admiralty, Baranof and Chichagof Islands, not in contested area. Guided hunting trips to contested area have more connection with Petersburg than Juneau. Bear hunt clients fly in from Petersburg, 2 trips for a total of 12 people, including	Petersburg's connections double those of Juneau.

Operator	Contact Information	Information	Connections with Contested Area
Glacier Guides, Inc. cont.		hunters and guests. Mountain goat hunters and guests arrive from Juneau for 2 trips totaling 6 people per year. One sightseeing trip per year up Tracy Arm, originating either in Petersburg or Juneau. Total of all guests is about 20 per year, representing \$160,000 revenue attributable to contested area, with Petersburg's connection double that of Juneau.	
Coastal Island Charters	11/8/2011 conv. with Mike Bauer (907) 874-2014	Wrangell-based tourist charters. All trips originate and terminate in either Wrangell or Sitka; never go to Juneau. Only 1 or 2 annual trips into contested area (Tracy Arm), for max. of 12 people, for approximately 2 days out of a 5-7 day trip. Max. annual revenue associated with contested area is \$10,000.	No connections with either Juneau or Petersburg.
Southeast Alaskan Adventures	11/4/2011 conv. with Bud Rosenbrach (907) 790-4687	CBJ information is accurate.	

ATTACHMENT 15

National Fisherman Magazine Article

NOVEMBER 2011

National Fisherman

INFORMED FISHERMEN • PROFITABLE FISHERIES • SUSTAINABLE FISH

ALASKA FISHERMAN'S
Incorporating JOURNAL

Sons of Norway

Vikings and salmon set course for Petersburg, Alaska

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O Cap'n!
Perc's last passage

Get in gear:
Trawls evolve

Land of second sons

Determination shines in Petersburg, Alaska — founded by Norwegians and thriving on fish

By Jessica Hathaway

When I stepped off an Alaska Airlines 737 in Petersburg, Alaska, I was struck by how small the airport is, given the size of the plane (a flight that nestles between the



In tidy Petersburg, even a shipyard under construction — Piston and Rudder Service — is flower-bedecked.

muskeg and mountains twice daily). I would soon cement the idea gelling in my mind that this town is awash in contradictions.

Known as Alaska's Little Norway, Petersburg has streets lined with perfectly appointed Scandinavian-style houses with manicured lawns and impeccable gardens. Yet, its main street (which in most parts of the country is considered the avenue of first impressions) is rather perfunctory. A string of unassuming shops and restaurants primarily cater to the principle industry in Petersburg: commercial fishing. The locals are fastidious, but above all, they're industrious.

"This is where you want to keep your boat, have it fixed and sell your product," says Mayor Al Dwyer,

underscoring the town's main economic driver. In a town that boasts one commercial fishing permit for every two people, one can understand why.

"Petersburg always has been — and hopefully always will be — a fishing town," says Julianne Curry, executive director of the Petersburg Vessel Owners Association.

The people of Petersburg are at an interesting crossroads, being located in a highly marketed and marketable part of Alaska. Other Southeast towns are reaching out to the tourism industry to grab passers-through and their dollars from Alaska Marine Highway System cruises touting tours of the heart of the Inside Passage. Petersburg has gone out of its way to get itself on the map (literally: the chamber of commerce paid a fee to be included on the ferry's tourist map of the Inside Passage). However, the people of the town are so fiercely

Salmon gillnetter and Dungeness fisherman Max Worhatch (right) and his son Cody pop the hold open for ice at the icicle dock.

proud of their fishing heritage (and so hard at work keeping the industry bustling in town) that they tend to regard targeting tourists as a lighthearted sideline to the real business of catching and processing fish.

"This is not a lifestyle," Curry says. "This is my life."

Scandinavian pride and work ethic give Petersburg its unique flavor. Local lore has it that the younger offspring of Norwegian families (whose estates were left to the eldest sons) settled here to establish the tidiest town built on sweat and elbow grease.

"The biggest compliment you can give to a Norwegian is, 'You're a hard worker,'" says Dave Ohmer, Trident Seafoods' Petersburg plant manager.

The town of nearly 3,000 people — less than half a percent of the state's population — possesses 8 percent of the state's commercial fishing permits for their fisheries. When wild salmon prices nosedived in the late 1990s, Petersburg didn't give up on salmon or fishing in general, despite offers to build a sawmill in town. Instead, the town's fishermen diversified into more fisheries and began amassing permits.

Petersburg in profile

Southeast Alaska is a narrow strip of islands and peninsulas between the Gulf of Alaska and British Columbia. Petersburg is located in the heart of Southeast at the tip of Mitkof Island, between Kupreanof Island and a sliver of American mountain range that borders British Columbia. The population — 2,948, according to the 2010 census — is surrounded by the Wrangell Narrows and Frederick Sound.

The area was first used as a summer fish camp for Tlingit natives from nearby Kake at least 2,000 years ago. It was established as a town in 1910 and named for Norwegian immigrant Peter Buschmann, who came to the area in 1890 to establish a cannery. He hung out his shingle in 1900, beginning the Icy Strait Packing Co.

Fishermen in Petersburg target salmon by troll, seine and gillnet; halibut and blackcod by longline; Dungeness, king and tanner crabs with pots; herring by seine, gillnet and roe on kelp; shrimp by pot and beam trawl; they also dive for sea cucumbers and geoduck clams; and the fleet is rounded out with salmon tenders. Out of 600 berths, the town's three harbors house roughly 500 commercial vessels.

The commercial fleet, from 32-footers to 100-plus, is served by the Petersburg Vessel Owners Asso-



ciation in town, but many find membership among statewide organizations that represent their fisheries and gear types, as well.

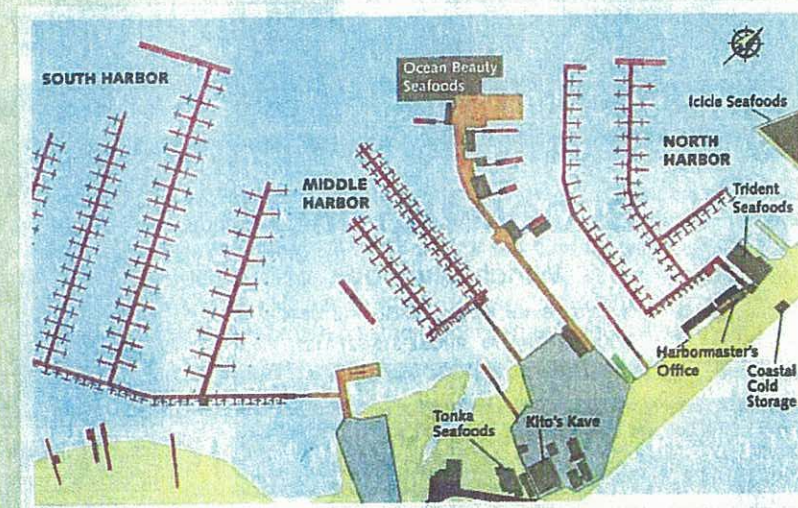
Fishermen find solace at the Elk's Lodge, the Moose Lodge, Kito's Kave and the Harbor Bar. But they get some pep in their step with coffee at Coastal Cold Storage, Common Grounds, and Java Hüs.

The Sons of Norway Hall, built in 1912, is a center of the town's social activities and Norwegian culture. Just outside the hall stand a small replica of the Viking ship Valhalla and the Bojer Wikan Fishermen's Memorial Park.

Word on the docks is all about salmon in the summer, but changes to halibut rules and the depletion of the Dungeness habitat are always hot topics, as well. "Over the last 15 years the sea otters have taken over the good Dungeness grounds and are eating the fishery down to a small area," says Max Worhatch, crabber and salmon gillnetter. — J.H.



The town of Petersburg boasts a population of 3,000, three harbors with 600 berths, 500 commercial fishing boats and more than 1,500 commercial permits.





Dock workers at Icicle Seafoods unload a haul of salmon from the selner Outlook in the midst of a big summer run.

"We have sustainable fisheries — and proven over a century — and a sustainable economy," says Sue Paulsen, town historian. Today that investment in fisheries is really paying off, especially in salmon.

"It's about bang for your buck now as far as economic investment. Hasn't always been that way, but everybody wants salmon now," says George Meintel, co-owner and skipper of the Lofoten, a 36-foot salmon gillnetter. Thanks in large part to the Alaska Seafood Marketing Institute promotions of wild Alaska salmon and the quality of fish produced by

direct marketer-fishermen like Meintel and his partner-wife Cynthia Wallesz, the product is sought after worldwide.

"We're awfully proud of what we've done here in Alaska," says Petersburg Harbormaster Glorianne "Glo" Wollen.

And the people of Petersburg are proud of what they've done for their own town. Even the Elk's Lodge was saved by local volunteers, who vowed to wait tables and find local chefs to keep the kitchen running in order to preserve the club. But

Processing Petersburg

The town of Petersburg has five processing facilities.

Three large canneries/processors are owned by Trident Seafoods, Ocean Beauty Seafoods and Icicle Seafoods (still known locally as Petersburg Fisheries). Fishermen tend to have a working relationship with one of these larger processors.

They get ice at their facility, are served by the company's tenders out on the grounds, stay in touch with their fleet or plant manager back in the Petersburg office, and off-load at the facility when they return to town. Once upon a time, the processors ran the show. These days, fishermen can pick and choose more freely, based on dock price, tender service, ice quality and often family legacy.

The two smaller custom processing facilities are Coastal Cold Storage and Tonka Seafoods.

Last year Icicle, established as Petersburg Fisheries in 1965, refurbished to significantly increase its freezing capacity. And it's a good thing, because this year the salmon season was so busy during July that the company brought in a processing barge to handle the surplus of landings coming off the tenders. The state-of-the-art plant also produces ikura and sujiko (salmon roe); fresh and frozen product forms of chum, pink, coho, sockeye and king salmon; halibut, blackcod and rockfish; Dungeness, king and tanner crabs; and herring.

The Trident plant was established as a shrimp processor by Earl Ohmer in 1916 but now processes fresh and frozen salmon, halibut, blackcod and rockfish.

Ocean Beauty Seafoods produces ikura, canned salmon, and fresh and frozen chum, coho and sockeye.

Custom processing facilities cater primarily to subsistence, charter and direct-market fishermen. —J.H.



Cannery workers at Icicle Seafoods weigh and amend kicked-out cans from the assembly line.



Glorianne Wollen adds her own special touch as the first woman harbormaster in Petersburg.

dealer of Cummins and John Deere engines.

Petersburg's fishermen are clearly happy with the strong salmon market this

year. Yet, they almost seem satisfied

everyone's favorite story this summer was the revival of the local boatyard. In October 2010, the Petersburg Shipwrights shut its doors. Local fishermen had to steam to Wrangell or more far-flung ports for any type of haulout. Local businessman Mike Luhr was considering retiring from his own Piston and Rudder Service and instead found himself heading a vast community project to bring the yard back to life.

Pretty soon 27 community shareholders had committed their own funds to the project and pooled more than a million dollars. All told, 24 of them are commercial fishermen. On June 2, 2011, the yard began hauling boats again. However, the primary work at the yard is still expanding its capacity.

"We're too busy to work on boats," Luhr jokes. A dock expansion to 300 feet will bring their capacity to eight boats, and a 12,000-pound crane will haul power skiffs. The goal is to create one-stop shopping for the fleet, including machining, retail, and serving as a

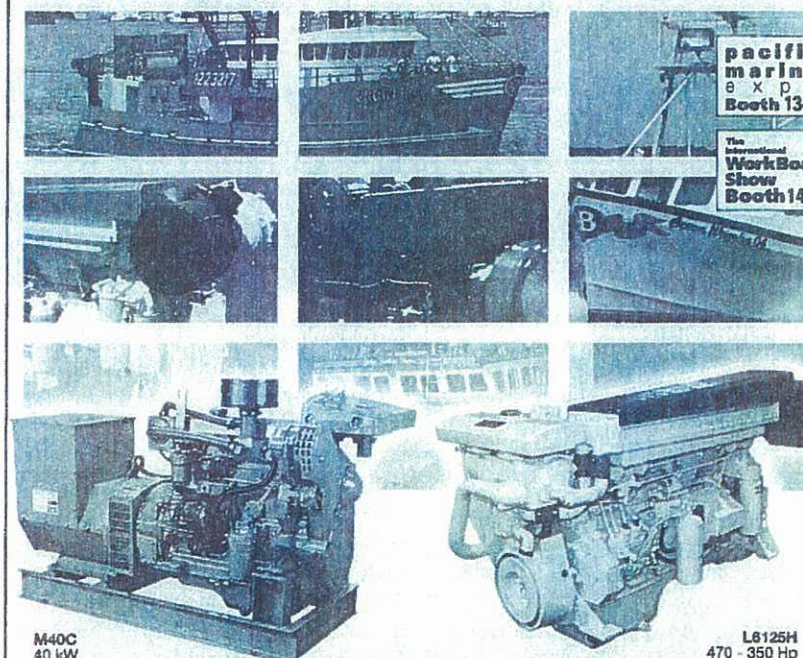


George Meintel pulls a salmon from the gillnet on the back deck of the Lofoten.

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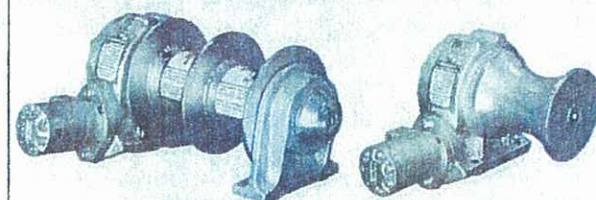
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Continued from previous page

that the FDA update its Fish and Fisheries Products Hazards and Control Guidance to account for changes in technology, which will certainly raise the bar on what are sufficient preventative controls to ensure seafood safety going forward.

Although FDA is at the helm of implementing these changes, NOAA is not out of the picture. The two agencies are to work cooperatively to improve seafood safety, standardize data, and coordinate detection of seafood-borne illness. NOAA also will be able to carry out examinations and investigations for violations of recordkeeping and other aspects of the modernization act or its regulations.

With lead authority, the FDA's Office of Seafood Safety, a part of the Center for Food Safety and Applied Nutrition (CFSAN), get ready to learn a host of new acronyms, is just beginning the regulatory development process, although it has al-

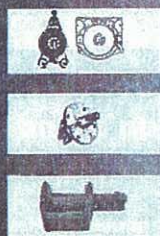
ready held some public outreach sessions. CFSAN has a video on its website providing additional information on its latest Seafood HACCP guidelines, as well as other useful information. With issues this complex and important decisions still yet to be made, it pays to monitor the process and engage early. The alternative is being saddled with unworkable rules ill-suited to the unique challenges of the fishing industry.

(Further information and the video can be found at www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/Seafood/FishandFisheriesProductsHazardsandControlsGuide/default.htm. You can also contact the authors for a more detailed summary of the law and ongoing regulatory processes.) NF

David E. Frulla is a partner and Shaun M. Gehan is an associate in the Washington, D.C., office of Kelley, Drye & Warren LLP.

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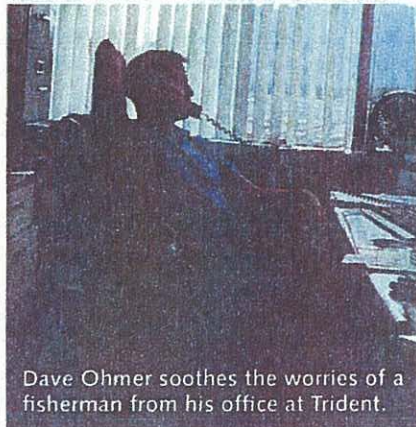
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Cover story

Continued from page 27

specific river. Halibut quotas for each fishing area are determined by the International Pacific Halibut Commission and then within the state, that quota is divvied up between subsistence, commercial and charter interests.

In Ohmer's office at Trident, he pauses occasionally to take phone calls from fishermen and tenders on the salmon grounds. The fishermen are exhausted



Dave Ohmer soothes the worries of a fisherman from his office at Trident.

from huge sets on two-day openings, and they're all getting set to steam back to town to off-load, ice up and head back out while the gettin's good. The big news is the return is strong enough to start four-day openings, though in the end, there would only be one.

Ohmer rattles off the dock prices for pinks, chums, sockeyes, kings and halibut, assuring his fisherman on the line that rumors of a bigger ticket elsewhere are untrue. "You won't get a better price," he says.

Ohmer's grandfather, Earl Ohmer, founded the plant in 1916 under the name Alaskan Glacier Sea Food. It began as a shrimp processor, but the company had to stop buying shrimp in 2005. "It's the hardest thing I ever had to do," Ohmer says. After years of processing it at a loss, the time had come.

"I hope to bring shrimp processing back to Petersburg," says Mayor Dwyer. Asked about his priority for the town, he replies without hesitation, "Trying to hang onto our fishing fleet. And we'll do anything we can to do that." NF

Jessica Hathaway is National Fisherman's editor in chief.

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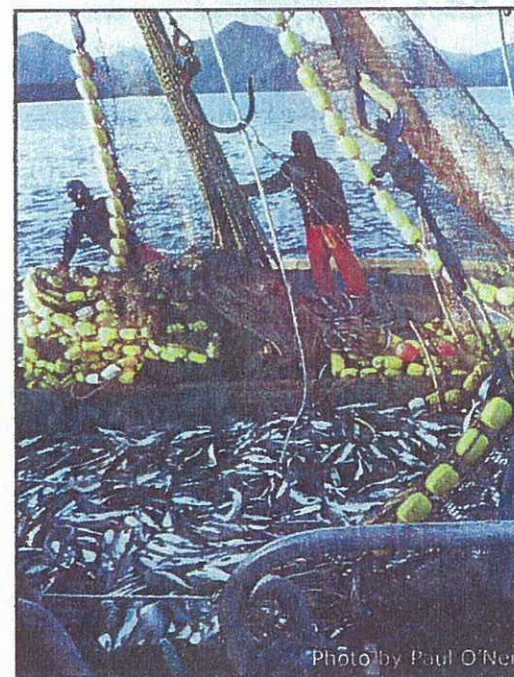


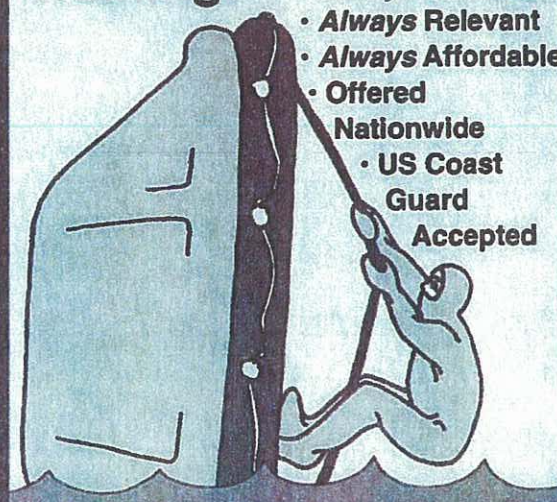
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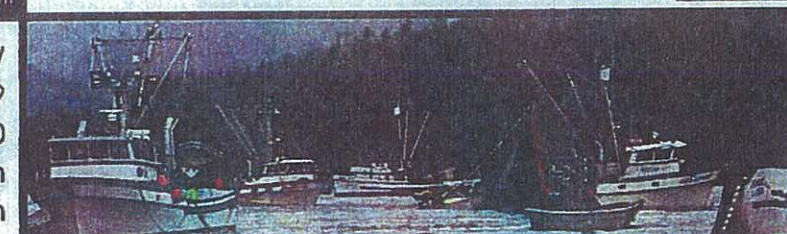
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Lobstermen race to fight MS; boat is stolen and then found

The third weekend in August, 60 lobster boats showed up at the MS Harborfest Lobster Boat Races in Portland, Maine. This is the last race for points in Maine's lobster-boat racing circuit. It was also a chance to raise money to fight multiple sclerosis.

This year the races generated slightly more than \$11,000 for the Greater New England Chapter of the National Multiple Sclerosis Society. The money comes from race entry fees and from fishermen who give back their prize money for first, second and third place. "Almost everyone gave money back," says Jon Johansen, a race organizer.

For each race, organizers raffled off 100 gallons of a 1,600-gallon donation of diesel — an added incentive to attend. "For \$20 dollars [the entry fee] you got a chance to win a \$400 prize," notes Johansen.

Alfred Osgood steamed down from Vinalhaven in the 36-foot Starlight Express equipped with a 900-hp Mack. He won his class at 54 mph, which was a little slower than the 56.1 mph he posted

at the Moosabec Reach races on July 2. Foolish Pleasure destroyed a bearing in her engine at the Friendship races and never really recovered. At the time of the Portland races, Stephens was working on a new Dart block for Foolish Pleasure at his en-

gine shop, Finish-line Racing Engines in Augusta, Maine.

Besides the new 632-cubic-inch block, Stephens says that for next year's races he might use bigger heads. With the improvements he figures Foolish Pleasure will hit in the low 80s.

"We're making 7,000 rpm now but only making 18 pounds of boost. But she can run 40 pounds of boost and can turn 8,000. She will go over 80," he says.

Of all the boats at the Portland

"We wanted to give a good show, get the donations going."

— Travis Otis

FIRST TEAM

races, the one that might have surprised some people with its presence was the 36-foot First Team out of Searsport. Travis and Keith Otis, who operate the Searsport boatshop Otis Enterprises Marine Corp., own the boat.

The Thursday before the races, Travis hauled through his traps, and at 6 p.m. put First Team on the stick in Searsport Harbor. Four hours later the

boat was gone.

Whoever took it knew how to operate a boat, because it was run some 25 miles across East and West Penobscot Bay, around Cape Rosier and down Eggemoggin Reach, between the mainland and Deer Isle. For part of the way, Travis figures the boat's radar was being used, because it was foggy early Friday morning.

Even without the fog, getting into Sedgwick Harbor is not a sure thing, unless you're very familiar with the harbor. It has a narrow corridor that Otis de-



With the Army's 1st Cavalry flag and "First Team/Vietnam" on her bow, you'd think this 36-footer too conspicuous to steal.

scribes as a "pain in the ass to negotiate."

Friday at 6 a.m., the Sedgwick harbor-master saw First Team tie up at the town dock with its radio and running lights on. Not until he had returned from hauling his traps that afternoon did he get suspicious. After going through some documents on the boat, he called Otis.

"Nothing appears to have been done to the boat, though I haven't given it a proper inspection," Otis says.

First Team was back in Searsport Saturday morning at 12:30. Sunday at 4:40 a.m., Keith and Travis Otis and the First Team headed out on the 4 1/2-hour run to Portland. "We wanted to support the MS registration," Travis Otis says.

First Team, with a 410-hp Sisu diesel, won her race at about 32 mph. "I played with them until about halfway down the course and then opened her up. We wanted to give a good show, get the donations going," Travis Otis says.

— Michael Crowley

Fishermen revive a boatyard; Wash. shop builds gillnetters

You're a member of an island community numbering about 3,000 people whose sole reason for existence is commercial fishing. Nearly everyone has a job directly involved in fishing or in support of commercial fishing.

The island's three harbors have moorings for nearly 800 boats and probably the same number of fishing boats operate far enough away that they only come into town now and then for servicing.

That's a lot of boats.

Then imagine the island's only boatyard with the only railway shutting down. That is what happened in Petersburg, Alaska, in October 2010, when Petersburg Shipwrights closed up shop.

"The shutdown awakened people to what a necessary thing the boatyard was," says Mike Luhr who has operated the machine shop Piston & Rudder Service in Petersburg for 31 years.

Luhr was having notions of retiring. So when fishermen tried to get him to buy the boatyard and reopen it, he told them

The investors were mostly local fishermen. "It was a community investment program," he says.

Piston & Rudder Service reopened the boatyard in June; Luhr took over as manager, which put an end to his retirement plans. "This sounded like a challenge," he says.

It didn't take long for improvements to take shape.

Derelect buildings were torn down; 300 feet of new docking floats were put in; and soon Luhr's floating machine and welding shop, which has been in the same spot since 1910, will be moved out with the new floats.

A crane with a 35,000-pound capacity was installed on a dock, and the railway is being upgraded "to make sure there are no failures," Luhr says. The railway has a 300-ton capacity and can haul a boat up to 100 feet long and 30 feet wide.

Currently the boatyard is negotiating with the town to acquire about

"The shutdown awakened people to what a necessary thing the boatyard was."

— Mike Luhr

PISTON & RUDDER SERVICE

ting property that with the acquisition of a travel lift will allow boats to be placed on land and worked on.

Down south in the Lower 48 in Langley, Wash., workers at Nichols Diversified Industries were painting the interior of a 32' x 15' Bristol Bay gillnetter the second week in August.

The boatyard is building the aluminum gillnetter to a design of Dick

Smitha's. Smitha, in Anacortes, Wash., has been building and designing boats for more than 20 years and is a Bristol Bay fisherman, says NDI's Mark Moore.

"We have modified the house for the client. It will be a wider and taller arrangement," Moore says. There's a bit of a trade-off here: You pick up interior room but gain weight and the house has more of a sail effect in the wind.

The engine space contains a 650-hp Scania that's matched up with a ZF Marine 360 marine gear and a 24-inch Traktor Jet from North American Marine Jet.

The Scania also powers an 8-inch bow



Nichols Diversified Industries is building this 32-foot Bristol Bay gillnetter to a Dick Smitha design.

thruster, the water jet's reversing bucket and steering. The net reel, stern roller and anchor winch run off the ZF gear.

Salmon will be kept chilled with a refrigerated seawater system from Pacific West Refrigeration in Sechart, British Columbia. A 4-cylinder Isuzu will power the RSW unit.

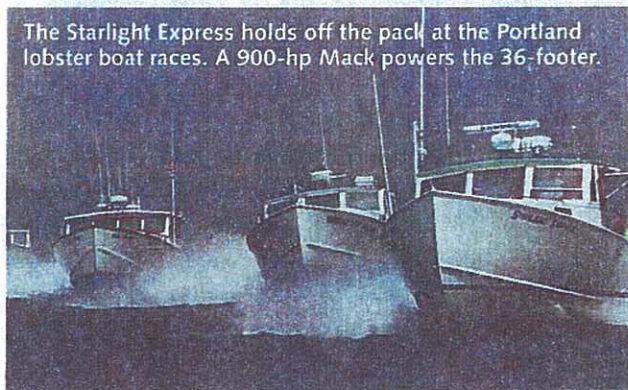
The gillnetter is for Fran Kaul. She operates Misty Fjord Seafood Producers in Winthrop, Wash.

Kaul's gillnetter should be delivered in mid-October. Once it leaves the shop, work will start on another Bristol Bay gillnet-

er. This one will have a portside helm. NDI will only be building the hull and superstructure, and installing the propulsion system. Another boatshop will complete the boat.

In August NDI was also cutting metal for 21' x 11' seine skiff. A 375-hp John Deere engine will be matched up with a Twin Disc gear turning a 28-inch wheel inside a steerable Kort nozzle.

— Michael Crowley



The Starlight Express holds off the pack at the Portland lobster boat races. A 900-hp Mack powers the 36-footer.

earlier this summer.

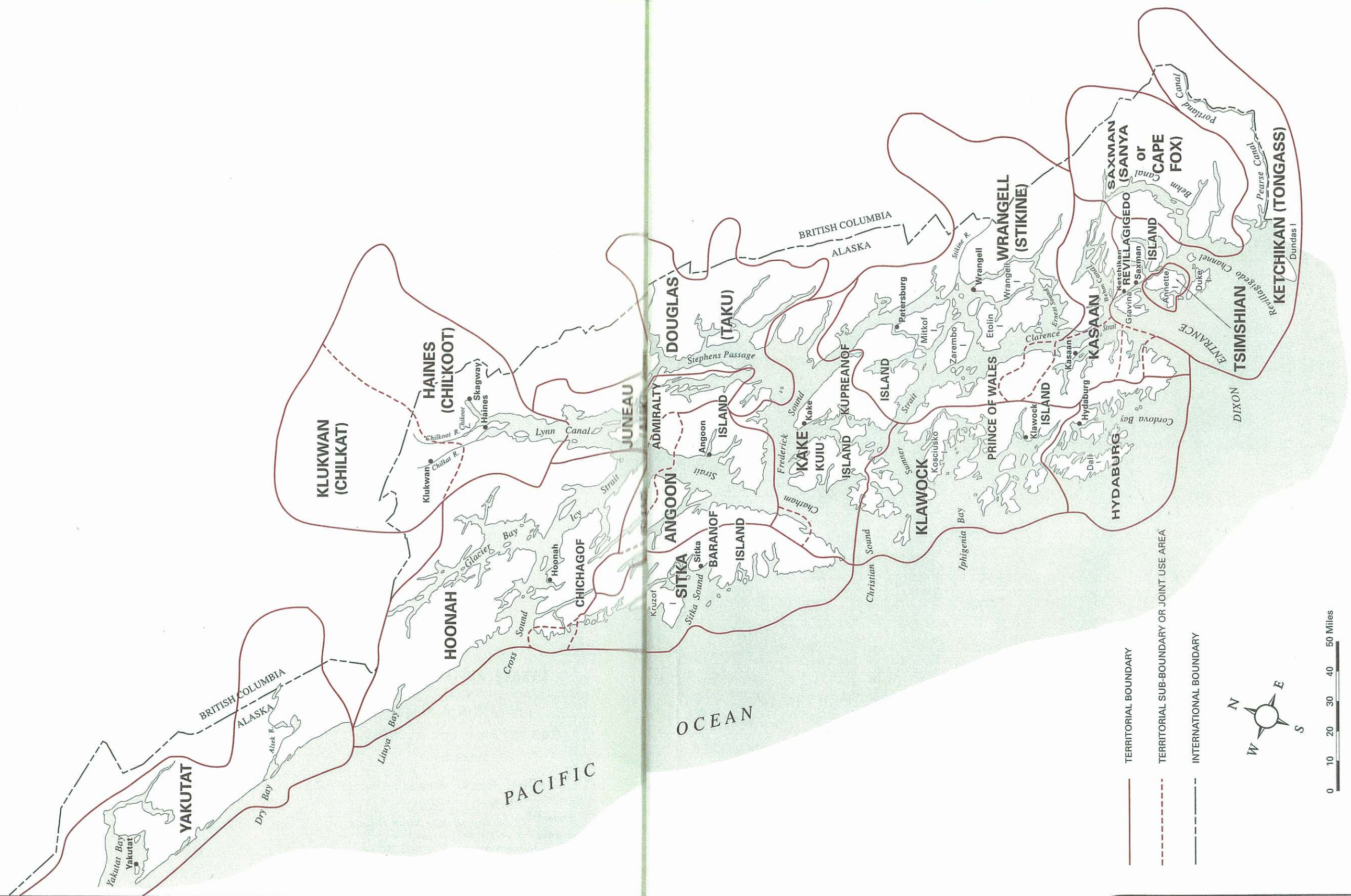
One of the big crowd-pleasers, the 30-foot Foolish Pleasure from Beals Island, wasn't there. With something between 2,000 and 2,500 hp — no one knows for sure except perhaps Galen Alley, the boat's owner, or Bob Stephens, the mechanic — she set the record for the fastest lobster boat — 72.8 mph —

ATTACHMENT 16

Goldschmidt and Haas
Map of Tribal Territory in Southeast Alaska

Chart 4: SOUTHEASTERN ALASKA

SHOWING LAND BELONGING TO TRIBES
OF THE TLINGIT AND HAIDA



ATTACHMENT 17

Goldschmidt and Haas Map of Tribal Territorial Claims

**Chart 13: CLAIMS OF THE NATIVES OF
HYDABURG, KAKE, AND Klawock, ALASKA**

